Supreme Court, U.S.
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NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

IRANDOKHT BAHRAMI

PETITIONER

VS.

MOHAMMAD ALI SAADAT KETABCHI, ALSO KNOWN AS MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI & HOMAYOUN KETABCHI

RESPONDENT

ON PETITION FOR WRITE OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1- One of my friends recently, decided to write my book. I live in United States, country that the right of women is a priority, yet I am being judged by courts like a woman in Saudi(which about 3 years ago, a woman in Saudi was raped, and instead of rapist being punished, the woman was punished and jailed for being raped) I was the victim recognize as the guilty one by courts and the victimizer Mr. Ketabchi was recognize as the innocent one. The game was different but the judgment on both cases were the same(me and the woman who lived in Saudi) please, clear this for me, if I live in United States or Saudi?

2-After unfair judgment of District Court, the judgment on my case with all evidences submitted, including erroneous error was not changed by Court of Appeal, what about my right, what about all the submitted evidences, did they really meant the judgment given on behalf of the rapist by District Court is a right and a fair judgment? What about Declaration of Doctor Soltani, M. D. ?What about the rape, suffrages, beaten , abused, and isolation that I went through, what about the right of innocent, the victim, what about my right of getting the true judgment, what about justice?

3- Why Court of Appeal found fraud and forged(erroneous error) on the phone statements by Mr. Ketabchi to cover up for the rape of January 25 2005, Officer Garofalo deposition saying that I was raped and also victimized physically and through phone calls, Declaration of Doctor Soltani and me admitting to him that I got raped on January 25 2005, Deposition of Doctor Berger, Testimony of Doctor Katz, Report of Doctor Rosenfeld, Two signed letters of my doormen, my daughters and I testimonies that I was raped on January 25 2005, yet the judgment on my case was not changed by Court of Appeal?

4- When there is no erroneous error, Court of Appeal affirms the decision of the District court. But Mr. Ketabchi did fraud to cover up for the rape of January 25 2005. Why the judgment was not changed on my case by Court of Appeal? Why was I sent back to District Court, to the same judge?

5- In District Court (whatever Mr. Dweck asked, Mr. Dweck got), and as a result of that I did not have a fair Trail, something which I was entitled by Constitution , Judge gave me the victim, the harshest judgment purposely, which no lawyer would take my case, hoping that I will never go forward in this case, all that to think about it, favorism?

6- Why my rape was called allegation by Judge Berman, why all the submitted evidences were ignored, why obvious fraud and forged was called an unintentional forgery, why every illegal act from Mr. Dweck and his client was called innocent mistakes? Why every big wrong doing, rape, crimes, illegal acts, fraud and forgery was denied and was supported by the Judge so obviously?

7- Why everything from my side with all the truthful evidences submitted, called allegations and lie, or I am not credible, nothing was credible on my side, non of my witnesses counted credible and were called liars. All the testimonies and depositions were ignored and was not reviewed, simply just to step on my rights. This is a total, 100% discrimination on my behalf?

8- Why Court of Appeal did not change the judgment on my case, even though fraud and forged was found and noted in their decision . Mr. Ketabchi did fraud to conceal and cover for the rape of January 25 2005, if he was not guilty, he would never do that, why my case was ignored so unfairly? What do we call when Mr. Ketabchi's fraud and

forged the phone statements to cover up for the rape of January 25 2005, is it called Erroneous error, is it where Court of Appeal has to change the judgment?

9- I was Mr. Ketabchi's victim right from the start(rape tape), why District Court did not allow my rape tape to be played at Trial, was it because it would become a big document at the Trial against Mr. Ketabchi, and Judge could not give such a harsh judgment to me. Was my case prejudged before Trial?

10- When there was a Trial with juries, cost so much for court, and Mr. Ketabchi and his lawyer did not show up, I asked judge and said, an icon like Michael Jackson was 5 minutes late, Judge sent a police to arrest him, your honor, what are you going to do about Mr. Ketabchi. Most of the time we had court, Mr. Ketabchi did not shows up, it was a usual game for 2 years, Judge said, it is in juries hand, it is not in my hand, even though it was in Judge's hand to give a penalty to Mr. Ketabchi. I said to Judge, if jury is not good, I trust you and you can remove the juries, I did not have a knowledge that jury was good for me, Judge was the one who was not fair?

11- My lawyer, his assistant, me, my witnesses and juries were waiting for a few hours, when Mr. Dweck's son showed up in last minutes when day was over and said my dad had another case, even though it was scheduled two months ahead, not only Court did not show an action, but Judge started complimenting Mr. Dweck and his family, like Mr. Dweck was a King, that was Mr. Ketabchi's penalty for not showing up by District Court, for me would be otherwise. Why?

12- Jury would listen to the Rape Tape and tone of Mr. Ketabchi's voice, admitting to rape, harasses, isolation, time

curfew, punishment, and when I was late, I shouldn't leave the apartment and was grounded for two months, practically, I was jailed in my apartment and Mr. Ketabchi was my prison Guard. After 2 years jury was removed and Monopoly game was over, and I lost my rights. Why was I judged so harshly, when I was raped in January 25 2005, and also right from the start?

13- District Court discriminated against me, he thought I am not credible enough because I was raped in January 25 2005, also, Translation of rape tape is submitted, I was raped right from the start, that's why Judge ignored all the submitted evidences and repeated everything Mr. Dweck said in Finding Facts and Conclusion. Judge said in his judgment that Mr. Ketabchi did have a 2 days stop in Frankfurt and he was in Dubai in January 28 2005 repeated what Mr. Dweck claimed, but fact was Mr. Ketabchi's passport was not stamped in Frankfurt and his passport was stamped in Dubai in January 27 2005, why judge did not check the stamp in the passport?

14- District Court claimed in Finding Facts that Officer Garofalo did not say anything about rape and me physically being abused, repeated what Mr. Dweck claimed, but the fact was Officer Garofalo in numerous of time in her deposition, said that I was raped, physically and mentally abused. I did not give Officer Garofalo, Mr. Ketabchi's name in February 16 2005, otherwise, as she said in her Deposition, she wanted to go to Dubai and bring Mr. Ketabchi back to the US, why Judge copy cat Mr. Dweck instead of reading Officer Garofalo's deposition?

15-My lawyer at Trial and I in my Motion brought the fraud and forgery about Mr. Ketabchi's only submitted phone statement to the case and the forged spread sheet in to District Court's attention. It was ignored and was not

reviewed by court. Also in Finding Facts and Conclusion, phone statements were argued in detail to forcefully proving that Mr. Ketabchi is innocent, why?

16- District Court in Finding Facts called my daughters liars even though Mr. Dweck was the one who was lying under the oath about police report, or Mr. Ketabchi having two days stop in Frankfurt. All questions which Mr. Dweck should have asked me, were asked from Atosa, which was gravely sick and went under Radiation a few months later(Mr. Dweck, wrote to judge please, give punishment to Ms. Bahrami's idiot daughters). Why?

17- Declaration of Doctor Soltani was ignored. Judge did not investigated and checked the evidences submitted, and he only trusted to Mr. Dweck's wording, why when I am a victim of rape, abuse and isolation, District Court has to give my rights to the criminal, and not check any evidences submitted and repeat, whatever Mr. Dweck said, now, Judge called my daughters liars and called me not credible, and gave me, the victim, the harshest judgment?

18-I lost my right of having a fair judgment, at trail and my motion filed in March 2 2010. Mr. Dweck brought fraud, forged, misrepresentation in to my case since Mr. Dweck knew, whatever he asks, Judge will accept, and whatever wrong doing he did in Judge's court, it would be ignored by the judge. District Court discriminated against me very obviously, it was like Judge wanted to say, you are a middle eastern woman and for that reason you are not credible, and you are entitled to this destiny, regardless which part of the world you live, you will have no right. Why?

19- District court's judgment will bring the worse out of Mr. Ketabchi, now Mr. Ketabchi knows with the fraud

lawyer, he can get away with any crime. Mr. Ketabchi in numerous of time harassed to kill me and my family, or he said he will send his brother Saeed Ketabchi, or Ahmad Rezai, whom he freed from jail to kill me(Ahmad cut his girl friend with knife)while Mr. Ketabchi is out of the US. Who's fault will be if anything happens to me and my family, because of District Court's unfair and harsh judgment, Mr. Ketabchi learned, he can do whatever he wants without the fear from law. Where is the law, which protects victims and innocents?

20- Dr. Berger said in his deposition, "I asked the Defendant lawyer if my report is good, or if he wants me to add some more, and the Defendant lawyer said is good" for Psychiatrist, this called a malpractice, what it means, Dr. Berger did not give his honest and medical opinion on my case, but the reflection of what Defendant lawyer asked him to put in his report, which is totally against the law. Why court did not dismiss Dr. Berger after he said that?

21- My Translator and I reviewed the answers in questioner and 15 were changed by Dr. Berger, even some of the questions were answered by Dr. Berger since my Translator and I did not understand it at all. After the exam Dr. Berger didn't give me a copy of my questioner even though right away, I asked for it, and when my lawyers asked for my translators copy of the questioner, he claimed he lost it and it was garbage, simply because my translator and I copy cat each other, and answer the questions together. Why District Court did not say anything?

22- Dr. Berger took MCMI3 test which for someone with my cultural background and my language barrier never worked, this test only being taken from criminals with 2 years of psychological problems. I am a victim, and Dr. Berger tested me which only that test being taken from

criminals. Why District Court did not say anything?

23- I filed a complain to the Courts, for me being raped in January 25 2005 but I was judged harshly and unfairly, now who should I trust, who I should complain to, and which law, really will support me? To me District Court was ruled by the law of Jungle, whomever was richer won the battle. District court made me to lose my trust to legal system which someday not long ago, I saw it as the only light in my life? Supreme Court is my last chance, and big hope for change, hopefully, this court help me to bring justice in to my case, Mr. Ketabchi raped me in January 25 2005 and physically and mentally abused me?

24- Mr. Dweck lied under the oath and claimed that he did not receive Dr. Rosenfeld's report. when Mr. Zilberg submitted copy of the mailing receipt to the judge, all the sudden Mr. Dweck's memory came back and said that he got it late, even though Mr. Dweck got the report two weeks before Trail, nothing was said by the Court to Mr. Dweck for lying under the oath. But as soon as, Mr. Dweck requested for Dr. Rosenfeld's report to be dismissed from Trial, Judge went by his request. I had no right in District Court, whatever Mr. Dweck asked, Mr. Dweck got, but Why?

25 - Why when my lawyers persisted for Mr. Ketabchi to submit his original American Passport, and his original phone statement, were ignored by Mr. Ketabchi's lawyers, District Court didn't say anything, Mr. Ketabchi forged my landline and his phone statements, and a lot of fraud, misrepresentation, mislead and misconduct was made on my case at Trial because District Court did and said as Mr. Dweck asked, it was like Mr. Dweck was the Defendant's lawyer and the judge at the same time?

26- What courts of United States considers Criminal, Mr. Ketabchi rapes, frauds and forges his only phone statement submitted, also my landline to cover up for rape of January 25 2005, lied under oath at Trial. Mr. Ketabchi uses other people's American Passport to travel and admitted to the act at Trial, different Soc Sec's, names and admitted at Trial. What really considers Criminal, how come if someone else does this, they will be put behind bars, but Mr. Ketabchi is walking free. If District Court was, Criminal Court, I, the victim would be in jail for one year and half, and Mr. Ketabchi, the rapist would walk free, is there any justice?

27- If any body would do what Mr. Ketabchi did, raping, traveling with other people's American passport and admitting to it at Trial, fraud and forging the documents, lying under oath, different Soc Sec's, passports, and names, society would call them Terrorist, but District Court thought of him as an innocent party, and Court of Appeal found fraud, forged and mislead by Mr. Dweck in my case and noted in their judgment but still I have the same judgment. Did Court of Appeal thought if I bring a motion in District court, District Judge would change his judgment, of course not, same judge, same mentality?

28- Mr. Ketabchi was recognized as innocent party and credible. Who raped me in January 25 2005, abused, isolated, harassed me and my family, raped me right from start and admitted, his only witness(his brother) dropped down the witness stand when Mr. Ketabchi admitted to the act of using his brother's American passport at Trial, raped the 14 years old kid and admitted, money laundry did it right in front of my eyes, drug dealing from Afghanistan to Mexico and from there in to the US(when Mr. Ketabchi raped me the first time, he was under Government Health Insurance, now he became rich by selling drugs, that's why

he uses other people's American passports. Why?

29- Before I brought the motion to District Court, by the advise of Court of Appeal , I knew what the outcome will be in advance. but I brought the motion just to prove nothing would change in District court, even though with so much of frauds. In my motion, I brought all the fraud, forged, and misrepresentation in to judge's attention, yet the judgment was the same, this shows that he really purposely discriminated against me, but why?

30- When Detective of the case, Detective Jackavino went to the airport to and arrest Mr. Ketabchi for rape of January 25 2005, I was in his office to get a copy of my rape complain. Detective Jackavino's boss and two of his colleagues were there also, yet the judgment of District Court was on behalf of Mr. Ketabchi and Court of Appeal with all evidences submitted and a lot of fraud and forged(erroneous error)which was found by the Court of Appeal itself, yet did not change the judgment on my case, why is that?

31- When I brought a motion(60b3=based on Fraud) to District Court on March 2 2010, Mr. Dweck had to respond to my motion within 3 to 5 days but instead, he sent a letter to District court in March 24 and with the long experience which Mr. Dweck has, he lied and claimed that he did not know, if this is a motion or not. In March 26, Mr. Dweck asked for time extension on the reply brief up to April 9 2010 and despite of me sending a letter against it, Judge gave him the time extension up to April 9 2010. Why?

32-Mr. Dweck did not submitted the reply brief in April 9 but instead he submitted his reply brief in April 26 2010(illegal act)without advance notification to judge, I brought a motion to stop that, and Mr. Dweck sent a letter to

Judge in May 11, he did not send me a copy of that letter and lied that he made a mistake.(How could Mr. Dweck make a mistake about the date, when he specifically requested that specific date, April 9 2010 in his letter), again Judge Favored him as usual and gave him that break. Judge claimed that it was an innocent mistake. The most obvious discrimination against me by Judge Berman and obvious favorism to Mr. Dweck. Why?

33-So, Mr. Dweck responded to my motion two months later(letters are included in Appendix C) and Judge in his judgment instead of paying attention to the fraud on my case, he spent a lot of time defending Mr. Dweck and his violations. Why?

34-Dr. Rosenfeld's report was submitted two weeks ahead before the Trial, and was ignored by the judge based on Mr. Dweck's request and he claiming, that he did not receive it and then claimed that he got the report late. But when Mr. Dweck responded to my motion two months later, Judge defended him in his judgment, and claimed, it was an innocent mistake, Judge not even once referred to the misleads and misconducts, and ignored the fraud that Mr. Dweck brought in to my case in his judgment. Did I have any right in District court? I am confused, if Judge discriminated me based on favorism to Mr. Dweck, or discriminated me because I am a middle eastern woman?

35- In respond to my motion District Judge claimed that I brought allegations, which allegations is he talking about, Mr. Ketabchi raped me in January 25 2005, forged my landline statement also forged his only submitted phone statement on this case to cover up for rape of January 25 2005 . (Mr. Ketabchi forged his only phone statement submitted was catch while I was in Court of Appeal, and I brought that to attention of Judge Berman) but he ignored

it, and instead of reviewing the fraud and evidences submitted on my case, Judge spent time to defend Mr. Dweck and his violations, Judge's judgment is purely based on what Mr. Dweck said in his briefs. Why?

36- (Follow up with question number 27)Mr. Ketabchi sat down under the oath and lied, Mr. Ketabchi admitted at the Trial that he traveled with his brother's American passport, I was a witness of that act, there is a rape tape which Mr. Ketabchi admitted of raping me the first time and raping a 14 years old boy(these are not allegation as Judge Berman claimed), these are facts which they were ignored by Court. Why?

37- It is not an allegation as District Judge claimed when, at Trail, Mr. Dweck submitted fraud phone statements with the knowledge of it, also, a lot of misrepresentation and misconduct which was noted by Court of Appeal, and lied under the oath about not receiving Dr. Rosenfeld's report, lied about the police report, lied that Mr. Ketabchi had a two days stop in Frankfurt, lied that there was no Doctor's report, lied that police never said that I was raped and physically abused and instead calling Mr. Ketabchi and Mr. Dweck liars, he called my daughter a liar. Why?

38-Defendant's Doctor graduated from medical school in Mexico and prepared and put whatever defendant's lawyer asked him to put in his report, not his honest opinion on the case. My doctors, Dr. Katz from Harvard and Dr. Rosenfeld from Fordham, which they gave their honest opinion on my case. In Finding Facts, also, judgment regarding my motion 03.02.10 Judge repeated what Dr. Berger said, Judge forgot that he is the judge not Mr. Dweck and whomever works for Mr. Dweck, like Dr. Berger, why?

39- District Judge claimed that I brought allegation that Mr. Ketabchi and his lawyers signed and got my medical record without my permission. Dr. Akavan, phone number212-333-7661, called me and said that he received a letter from Mr. Ketabchi to release my medical record, but Dr. Akavan did not released my medical record since it did not have my signature, you can call Dr. Akavan for accuracy of my wording. Judge called the truths allegations, simply because he purposely wanted to step on my rights legally. Judge Berman took advantage of his power?

40- Mr. Ketabchi forged my signature and got my medical information without my permission or my signature from Oxford, and it was included at the Trial and in Mr. Dweck's Appendix in Court of Appeal pages(SA8 to SA118, Lower Court Record) . So, when Judge claimed that I brought allegation, it is a big accusation from District Judge, because I said the truth, also Court could call Dr. Akavan and get the truth. I will go after that matter with Oxford later on?

41- Mr. Ketabchi learned how to get away with his crime without being punished, District Judge opened the bigger door for his crime, since Mr. Ketabchi lost his fear from law. Why Judge Berman ignored all Mr. Ketabchi's crimes and called me, the rape victim of January 25 2005 as someone who is not credible? Who frauds and forges the documents and submits to court to cover up for the rape and sits and lies under the oath at Trail, except the guilty one of rape in January 25 2005?

42- In my Motion based on Fraud March 2 2010, I brought to Judge's attention that Mr. Ketabchi fraud and forged his only submitted phone statement and was submitted by Mr. Dweck the fraud lawyer who plays monopoly, to cover up for the rape of January 25 2005, to

false prove that he was busy on the phone every minute, so there was no way that Mr. Ketabchi could have been in my apartment and raping me. (page 6, Appendix C) Judge Berman ignored it again and in his judgment regarding the motion claimed,§ "this Court is unable to find the documents should be considered…intentional forgeries." . Why?

43- Mr. Ketabchi's fraud and forged his only phone statements submitted and if you check(pg 168 Appendix B, (1/25/2005, 6:49PM, 917-225-0072 Queens, one minute), if Mr. Ketabchi ever called me on my cell, at 6:49PM, I would have an incoming call at 6:495PM in my cell statement, and I have no incoming or outgoing call between 5:38PM to 8:09PM. Mr. Ketabchi submitted only copies of his forged statement to court, while I submitted the original ones. Mr. Ketabchi's only phone statement is fraud and self made by him and submitted by Mr. Dweck. When Judge claimed Mr. Ketabchi's phone statement is not an intentional forgeries, it means, Judge Berman is stepping on rights of the innocent, the victim to save the rapist. Why?

44- I showed Mr. Ketabchi's only submitted phone statement to the case, and my original cell statement to 3 experts from different phone companies and all agreed that Mr. Ketabchi's only submitted phone statement to the case is fraud and forged, for the same reasons as question number 43. I am sure Mr. Ketabchi's original phone statement will look different from the submitted one. I was raped in January 25 2005, and Mr. Ketabchi fraud and forged two phone statements his only submitted phone statement and a fraud spread sheet to conceal the rape of January 25 2005, would you please help me and bring justice to my case?

45- In post Trial brief and my Motion filed 3.2.10, my lawyers and I brought to Judge's attention that Mr. Ketabchi fraud and forged his only submitted phone

statement to the case also added 411 pages fraud spread sheet with Mega fake minutes and no Logo. And nothing was said, why?

46- 411 pages of fraud and forged spread sheet with no Logo was added to my case. In that fraud spread sheet, in 1/25/2005 from 4:16PM to 7:37PM, there is no phone calls, which I said the rape happen during those hours. Also, the listed call at 4:16PM, is for 1067 minutes, even though the next call listed is at 7:37PM, which is 201Minute later. How could I make a call at 4:16PM for 1067 minute and make another call 201 minute later, except this spread sheet be fraud and forged. Yet, District court called it an unintentional forgery. Why?

47- Forged spread sheet with no Logo, forged to conceal the hours which rape happened, so at 4:16PM, he put 1067 minutes of conversation for me in that forged spread sheet to cover up for the hours of rape in January 25 2005, and false prove that I was busy on the phone for 1067 minutes, so between hours of 4:16PM to 7:37PM, raped couldn't possibly happened. Why?

48- Judgment of District Court responding to my motion, page 6, District Judge claimed "this Court is unable to find the documents should be considered...intentional forgeries." when Mr. Ketabchi added 411 pages of fraud spread sheet with Mega fake minutes (page 308 was for 1/25/2005), No Logo, added to my case, to cover up and conceal for the hours of rape in January 25 2005 . Yet it was called an unintentional forgery. Why?

49- At Trial, when I became suspicious and ask Mr. Dweck to show me that fraud spread sheet, Mr. Dweck ignored me completely. How could a judge not be able to differentiate an unintentional forgeries from intentional

forgeries? How could District Court let Mr. Ketabchi to get away with frauds on his only submitted phone statement on the case and the fraud spread sheet to cover up for the hours of rape and the rape itself?

50- Mr. Ketabchi Fraud and forged the phone statements to cover up for the rape and hours of rape of January 25 2005, and Mr. Dweck with knowledge of the fraud submitted the statements to the court, and District Judge ignored it completely, and called me not credible and guilty one, and all my witnesses Testimonies were ignored, anyone on my side was not credible enough and was underestimated by District Judge(Doctor Soltani MD, Officer Garofalo, Doctor Katz MD, Doctor Rosenfeld, Patricia Murphy(psychologist), my two doormen which Sam is a lawyer, who signed letters , my daughters) not credible. Why?

51- Mr. Dweck brought fraud, forged and misrepresentation in to my case without the fear of law at Trail and he is a lawyer, Mr. Dweck added a typed letter with the forged typed signature by Mr. Ketabchi and claimed that I sent a harassing letter to Dr. Surur, I never typed that letter, if I ever send letter, I will use my hand writing. In July 2010 I went to see Dr. Surur and he asked me to ask the Supreme Court to call him, so they will hear the truth from him 212-734-1239?

52- District Judge gave me the harshest judgment due to request of Mr. Dweck, so I would never go forward in this case, no lawyers accepted my case, their reasons were Judge gave you the harshest judgment purposely, but why, it seems so personal. I had to defend myself in Court of Appeal, which found fraud, forged, misrepresentation, mislead and misconduct in my case and noted in my judgment. My only hope is Supreme Court and the Public Support. Please help

me?

53- At Trail, my lawyers were shut up by the judge constantly, I did not have a Trail, it was sort of like Monopoly Game. After Trial, I got sick in the death bed and hospitalized for 43 days in New York Hospital(while, my daughter Atosa was under Radiation, needed me), I promised myself that if I get a second chance in life, I will go to the end, to bring Justice in to my case, so, first I need God's help, then Supreme Court's help, please, help me to bring justice in to my case, once for all?

54- I did not have a fair Trail, something which I was entitled by Constitution, since District Judge Discriminated against me, I had no right in District Court. I asked the Judge to give me time to talk about myself, also, asked for my rape tape to be played, and he did not allow me but he gave 3 to 4 hours to Dr. Berger to talk, and I am the one who is the victim . Also, Mr. Dweck brought a lot fraud, misrepresentation, mislead and misconduct in to my case at the Trail, as a result of Judge's discrimination. I lost my Constitutional right of having a fair judgment on my case. What about my right as a victim? What about right of innocent? What about justice?

55- We receive a unknown phone calls on our cells, which says" I kill you, I kill you", Mr. Ketabchi constantly harassed to kill me and my family, or harassed to run us over by the car or truck. Sometimes, he said, I got rid of this man, I have my ways, I just sent a box of drug in his front door, with no returning address, then I called the police. We live in fear, I know, Mr. Ketabchi finally will do something. Now Mr. Ketabchi is more dangerous than ever, because he knows, he easily can cheat the legal system, by having a skillful fraud lawyer? Who is going to help me?
It's Been 5 years, I am in different courts, what will happen to me and my family, sometimes after the courts are over,

who will guarantee our safety, Mr. Ketabchi is a skillful criminal?

56- I was raped, went forward against my tight cultural believes, which women have no rights regardless, yet I was recognized as the guilty one. Now, I am being pinpointed by everyone in my community. Please, help me to bring justice to my case, after all I am living in United States, not Saudi? Friend of mine started writing my book, to let the world know, that what had happen to me?

57- In 1998 Mr. Ketabchi, used a combination of his fist name, Mohammad and his brother's first name Fred and purchased a phone number 917-748-3561, under Mohammad Fred Ketabchi, I have a copy of this statement. Mr. Certain brought that fact to Judge's attention at Trail, which it was ignored. Mr. Mohammad Ketabchi also, used his brother's Mr. Fred Ketabchi's American Passport to travel which was ignored again by the Judge(copy of it in second book, page 19). Why?

58- Mr. Ketabchi made Income Tax paper for everyone, including me which Mr. Ketabchi admitted to the act in his deposition(Copies of it in the second book, page 19). Also, Mr. Ketabchi changed the information on his deceased wife's driving license while she was very sick, and gave me that Driving license to use, I did not use it but I kept it(second book, page20). Yet Mr. Ketabchi was recognized as someone credible by District Court. Why?

PARTIES TO THE PROCEEDING

The following identifies all of the parties appearing here and before the United States Court of Appeal for the Second Circuit:

Irandokht Bahrami is the Petitioner here and was the appellant below.

Mr. Mohammad Ali Sadat Ketabchi is the Respondent here and was the appellee below,

The Dweck Law Firm, LLP was the Respondent lawyer in Court of Appeal, as well as District Court.

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OPINIONS BELOW

Court of Appeals for the Second Circuit, put a provision due to fraud and forged(erroneous error), mislead, misrepresentation and misconduct (Appendix A) in their judgment and yet, the judgment of District Court was not changed. District Court opinion is unreported.

JURISDICTION

District court gave me the harshest judgment based on Mr. Dweck request, regarding me getting raped in January 25 2005 by Mr. Ketabchi, so, no lawyer would accepted my case, hoping that I will never go forward in this case, I was traumatized by that judgment and was hospitalized a few times for 43 days in New York Hospital. I appealed but Court of Appeal on February 11 2010, despite of fact that there was a lot of fraud and forged statements(erroneous error), Declaration of Doctor Soltani, Deposition of Officer Garofalo, Affidavit of my daughters and I, letters from my doormen, Rape Transcript did not change the judgment on my case, only put a provision in their judgment due to fraud, forged, misrepresentation and misconduct and referred me back to District Court, the court which took my right of having a fair Trail, something which I was entitled by **Constitution**, and disregarded the strong evidences submitted, the court that, what ever Mr. Dweck asked, Mr. Dweck got, the Court that I was Discriminated and I had no right at the Trail neither in my motion based on fraud 60b3, filed in March 2 2010(Appendix B and C).

STATEMENT OF THE CASE

Mr. Dweck said in brief to Court of Appeal(Page 8, lower court record) "there were no eye witnesses", there are no eye witnesses to 99% of the rape cases, the first time that I was raped by Mr. Ketabchi there were no eye witness either but I taped recorded him admitting to the first time raping me also, raping the 14 years old boy. (Rape Transcript, page 6)

Man: I remember, I talked to god and thought with myself and said to myself ALHAMDOLALA it's a Arabic word in English means (thank God)that she didn't make a problem and didn't make it hard.
Woman: Ya right you are ridiculous, I felt so disgusted, and so dirty and so…guilty. You looked at my legs and said "your legs are so…beautiful", but I hated you I was so…angry for a few years I was running away from you but I don't know probably that's my destiny and my life that I have to live like this.

Woman: How about that young boy that you did have sex with?
Man: That boy I did only two or three times, and he did not like it. He was in pain and did not like it. (Rape transcript, page 8)

I have my daughters as my witnesses that Mr. Ketabchi was in my apartment in January 25 2005, they saw my bruises, also the two letter typed and signed by my two doormen(Appendix B) admitting that Mr. Ketabchi came to my apartment in January 25 2005 and January 22 2005 also, Sam, one of my doormen admitted that in January 26 2005 the day Mr. Ketabchi flew out of United States, I asked him to leave a note in the doormen's book that no one is allowed to let Mr. Ketabchi in my apartment ever again. These letters are one of the proves that reject Mr. Ketabchi's lies at Trail of not being in my apartment in January 25 2005 and rapping me(one day before he left to Dubai), the Declaration of Doctor Jahangir Soltani shows that he saw me in January 29 2005 and I admitted to him that I was raped by Mr. Ketabchi in January 25 2005 but Mr. Ketabchi attempt to rape my daughter right in front of my eyes, a few days before he raped me in January 25 2005 that's why I decided to take an action because I did not want the same thing that happen to me and my life happens to my daughter, only for her sake.
Q: And was your mother in good condition at the time you came home(in January 25 2005 rape day)?

A: My mom? No, she looked like a mess. Her hair was a mess and then also it's like her eyes were red and like tearful. And she was very much disoriented.(Trial, Atosa , page 96, 97)
Q: And on here you say, when I went home to have dinner with my mom, and Hômayoun, as soon as I entered home, I saw my mom. It looked like she cried a lot and beaten up.
A: Exactly(Trial, Irman , page 109)
A: My--I actually, told her you know, go to the hospital, but she was scared because Mr. Ketabchi always harassed my mom and us--(Trail, Atosa, page 106)
A: He attempted to raped my daughter, Atosa in January of 2005.(Trail Ms. Bahrami, page 119)
The witness: But Mr. Ketabchi attempt to rape me.(Trail Atosa, page 96)

Mr. Dweck in his brief to Court of Appeal(page 10 paragraph 2, lower court record said, that I did not complain to the police about the rape **at the trail Mr. Dweck claimed that I have only one claim with the police. I went to the police three times and I have two claims with the police, and in those reports Officer Garofalo refers to the first time of meeting me February 16 2005, way before I hired a lawyer on my case** and me not filing any reports due to my fear from Mr. Ketabchi.
Q: Did you go to the police with your mother?
A: Yes(Trail Atosa, page 100)
Q: Did you ever hear your mother tell the police that Mr. Ketabchi raped her.
A: Yes.(Trail Atosa, page 100)
A: She asked Dr. Irani to take Mr Ketabchi to Criminal court but, Mr. Irani didn't do it.(Trail, Atosa, page 100)
Q: Did you take your mother to the police station and ask them to arrest Mr. Ketabchi? When?
A: Yes. I did it in February of 2005.(Trail Atosa, page 101)
The Court: And you--who--you talked to a detective?
The witness: Yes. Ms. Garofalo(Trail, Atosa, page101)

The Court: You did not file any complaint.
The Witness: My mom was scared for us.(Trail, page 101)
The Witness: At first you know, she(Officer Garofalo) took my mom to another room, said you have to give the name, it is important, I can go to Dubai and bring him, to United States. Officer Garofalo said: If he is raping you, you have to file a complaint. But, you know, my mom is a very weak minded person. So she like, you know was crying and said, you know my kids will be killed, I'm going to be killed.(Trail Atosa , page 101, 102)
Man: I will call your landline and if you don't pick up then it will be over for you. *Rape Transcript, page 3*
Man: I have people watching you. Rape Transcript, page 2
Woman: I am afraid if I be one minute late, you start fighting and bothering me like crazy. Rape Transcript, page 4.
Deposition Officer Garofalo: Miss Bahrami did not want to give us any information at all as who this person is that had been abusing her because I wanted to go after the guy right at that moment but there was nothing I could do.
(page 14)
Mr. Dweck questioned: Seeing this document that is dated February 16th 2005 does this document refresh you recollection, does it make you remember that you and your mother went to the police--
A: Yes I do.(Trail Transcript, page 110)
The Court: Do you have a copy of that.
Mr. Dweck: It is exhibit 18 in our binder but here, Judge.
Q: After your mother told you that she was raped, did you take her to a hospital, or did you insist that she go to a hospital?
A: My- I actually told her, you know go to the hospital but she was scared because Mr. Ketabchi always harass my mom and us--(Atosa, Trail Transcript page106)
The Witness: I encouraged her but she was so scared she was very much scared.(Atosa, Trail Transcript page 107)

The court got a copy of the report dated February 16 2005 first time, and April 12 2005 second time I went to Officer Garofalo, the second police report dated February 28 2007 was the third time I went to Officer Garofalo.
The Court: **And then you went back to the precinct(17)in April 2005**?
The Witness: Yes.(Trail Atosa, page 102)
The Court: And what happened in April 12?
The Witness: She filed for rape.(Trail, page 102)
Q: Atosa, your mother never charged Mr. Ketabchi with rape to the police, did she?
A: She did, I was there.(Trail, page103)
Q: And didn't Mr. Irani your mother to go to the police after he started this lawsuit. Yes or no?(Trail, Atosa, page 103, 104)
A: Once before, we went there(police station) and twice after my mom talked to Mr. Irani.

The first time I went to the police was February 16 2005 I hired the first lawyer Mr. Irani on my case in April of 2005 a few months after I went to the police the first time.
Asked by Mr. Dweck: Are you aware, Atosa that there is only one police report that was filed by the police?
A: Actually, we went to the police station three times, once she didn't file and two she filed(Trial page 104, all the questions which suppose to be asking me were asked from my daughter Atosa, who was gravely sick)

Mr. Dweck again mislead the Trail by saying there is only one police report on the case, Mr. Dweck indirectly pointed to my daughter Atosa as a liar, and Judge Berman in Findings of Facts and Conclusion(page 182 number 4) said that District Court did not believe my witnesses as a result of misleading and dishonest misrepresentation which Mr. Dweck caused.

I went to the police along with my daughter Atosa, once in February 16 2005 talked to Officer Graofalo but did not file a

report out of fear.

Q: **Do you recall whether you prepared any documents on the occasion of her visit?(Officer Garofalo deposition** , page 14, 15)

A: **Not with my first visit, not with my first meeting her. That was when Miss Bahrami would not give us any information at all.**

Q: Did Miss Bahrami appear to have indicia of women who are victims of domestic violence?(Officer Garofalo Deposition, page 13, 14)

A: Yes, it's not uncommon for victims of domestic violence, to be nervous, to be fearful of their physical safety and also fearful of repercussions if they do make a police report. Most of the time female victims of violence, domestic violence, because there's emotional, there's verbal, but most victims of physical domestic violence are afraid of the repercussions if they do make the police. At one point Miss Bahrami even stated that because of the --I believe it's in Iranian culture, then I said to her, you know, he can kill you, and Ms. Bahrami said, if that's what is to happen, then that's the will of God.

Q: Approximately how many of these cases have you come across?

A: Hundreds of cases(Deposition Officer Garofalo page 13)

Q: Now you indicated there was a second visit. Was that second visit in April or another date?

A: Apparently, it was in April 2005, because at that time I had taken a report from Miss. Bahrami.(Officer Garofalo deposition, page15)

A: I think I had finally convinced Miss Bahrami to initiate a complaint to get the help that she needed and to bring the defendant in. (page 17,18, 19) I also referred Miss. Bahrami to Manhattan Criminal Court at 100 Centre street, to obtain an order of protection against the wanted. Also I told Miss. Bahrami speak with representatives in there for domestic violence victims, assistance unit and to get petitioning for her

and order of protection or any other help that she might need like seeking shelter placement.

First time I went to Officer Garofalo was February 16 2005 I told her that Mr. Ketabchi raped me in January 25 2005 but too scared to give her Mr. Ketabchi's name. I hired Mr. Irani(The first lawyer in my case in April, a couple of days before I went to Officer Garofalo for the second time in April 12 2005).

The Witness: At first (**memory of February16 2005**) Officer Garofalo took my mom to another room and said you have to give the name, it is important. I can go to Dubai and bring him back to United States. **If he is raping you, you have to file a complaint**, but she said. You know, my mom is a very weak minded person. So, she like, you know was crying and said, you know my kids will be killed, I'm going to be killed.(Trial, Atosa , page101, 102)

Q: On the first occasion that you met her well, did you meet her on more than one occasion face to face?
A: Yes.(Deposition of Officer Garofalo, page 12)

The second time I went to the Officer Garofalo was in April 12 2005 and if you check her report in April of 2005, she is referring to the date February 16 2005 the date that she saw me for the first time and I complained about the rape of January 25 2005. By an error, she put "aggravated harassment and referred date of February 16 2005" probably Officer Garofalo made this error because back in February 16 2005 I complained about the rape of January 25 2005 also showed her my cell phone and my land line which had Caller ID and Mr. Ketabchi called me numerous of times from Dubai and harassed to kill me and my family, I said to Officer Garofalo that Mr. Ketabchi raped me in January 25 2005 I did not give her Mr. Ketabchi's name but gave her, what I had, the rape tape as some kind of evidence and said, if any thing happen to me please go

forward. I believe Officer Garofalo still had a memory of that evening, February 16 2005 when she prepared the report and instead of January 25 2005 mistakenly she put the date of the fist time that I complained to her. **Officer Garofalo's Deposition talks about the first meeting February 16 2005**(pages 20) when I had no lawyer.
"Now, I have to try to convince a victim who is not born here and is not used to our culture that It's Okay to be treated like a lady and **no one has a right to, especially a man does not have a right to beat you or rape you or abuse you."**

Officer Garofalo, despite the error that she made in her report she admits the fact of me told her that I was raped at the end of her deposition. Judge Berman in Finding Facts and Conclusion said that Officer Garofalo never said that I was raped and physically abused.
Officer Garofalo Deposition says: In Miss Bahrami case she was being victimized not only physically, but also through phone calls.(page 16, aggravated harassment)

In February 16 2005 first I met Officer **Ortiz**, I told her about the rape of January 25 2005 and **she said let me call Officer Garofalo who takes care of the rape cases**.
Q: The first occasion that you met with her, did you meet with her with any other police department present?
A: Yes, Police Officer Evelyn Ortiz (Officer Garofalo' deposition, pages 12)

In **February 28 2007** I went to Officer Garofalo for third time because I needed police protection, I was going to Washington D.C. last time when I visited Washington D.C, I went to the office of Doctor Shayaste and Doctor Panah, they were my father's cousins colleagues, the next day after my visit to Doctor Shyaste's office, he asked me to see him, when I went there, Doctor Shyaste said(late 2004) this morning Mr. Ketabchi came to see me, he was acting scary, I am fearful for you and

your children lives please, go to police, when you walk be careful then continued, I took so many psychology classes and this man is very much capable of killing you guys and make it look like an accident, do not go any where with your children, always one of you stays home so if any thing happens the other can go forward. So, in February 28 2007 I went to Officer Garofalo to get protection. Overall three times I went to Officer Garofalo and two times I filed reports and there are two reports on my case April 12 2005 report which refers to February 16 2005 which I did not file a report since I was fearful to give up Mr. Ketabchi's name and once February 28 2007. **what it means, my daughter Atosa said the truth at the Trail and was missed judged by misrepresentation that Defendants lawyer caused, also Judge Berman ignored Officer Garofalo's deposition and the fact that she admitted I was raped and physically abused by Mr. Ketabchi in his judgment.**

Mr. Dweck in brief to Court of Appeal (Page 2, lower court record) said that I made a call from **my cell phone to Mr. Ketabchi's home in New Jersey** for 14 minutes, **Mr. Ketabchi made that call from my cell, to his second cell phone 210-818-0488 not his home number that's not his home number, it's a Verizon Wireless as it says at top of the only phone statement submitted by Mr. Ketabchi.** If you check Mr. Ketabchi's statement there is **no incoming call** recorded at 5:25 for 14 minutes from my cell 917-225-0072, which shows Mr. Ketabchi's cell statement is fraud and forged by him and submitted by his lawyer to cover up for the rape of January 25 2005.**(also, Mr. Ketabchi always used my phones to call everywhere, as I admitted at Trial and my Deposition).** .

Mr. Ketabchi **never submitted his home statements** 201-848-9523 or 201-848-5657. In top of Mr. Ketabchi's only submitted statement to court, says Verizon Wireless, does not refer to any phone number which it is impossible that Verizon

or any phone companies, do not note the phone number at top of each page, also contains incoming calls, it means can't be a land line, no incoming calls ever recorded in land line but in cell statement. This statement belongs to Mr. Ketabchi's second cell number **201-818-0488.** and out of 35 calls 16 incoming calls recorded in this statement between 8:41AM to 8:41PM on January 25 2005 are from his main cell number 646-369-9500 that's why it can not be copy statement of Mr. Ketabchi main cell number, **this is a fraud, forged and self made copies of his second cell number 201-818-0488, Mr. Ketabchi had a few cell numbers, but he submitted not original but forged copies of his second cell number.**

Mr. Dweck said in brief to Court of Appeal(page 3, lower court record) that there were multiple telephone calls on my cell phone bills to the Defendant. If you check **my cell statement, I had a few incoming and outgoing phone calls from my daughter Atosa 917-544-9257 before 5:38PM and between 5:38PM to 8:09PM, I had no phone calls** in my cell not incoming or outgoing. I only had two phone calls recorded in my land line one at 11:09AM, and the other at 8:36PM, I said the rape happen in the evening, I don't know the exact time, I did not check the clock when I got raped. Also I had no phone calls from my step son in January 25 2005 **again Defendants lawyer mislead the Trail by misrepresentation of information.**

Mr. Dweck in his brief to Court of Appeal **page 2, lower court record,** referred to Mr. Ketabchi's only submitted phone statement in this case, as Mr. Ketabchi's **land line statement. In page 3, lower court record,** Mr. Dweck is referring to the same statement, and only phone statement submitted to the case by Mr. Ketabchi's as Mr. Ketabchi's **cell statement, Mr. Dweck submitted fraud and forged statements, mislead and misconduct the whole Trial and violated my right of having a fair Trial.**

Mr. Dweck said in his brief to Court of Appeal (page 3, lower court record) that one of the calls reflected that defendant was in Queens. If you check the only statement which Mr. Ketabchi submitted to court at 6:49PM call made from Mr. Ketabchi's cell to my cell number 917-225-0072 from Queens for a minute, if that call ever made from Mr. Ketabchi's cell to my cell, I would have an incoming call in my cell statements at 6:49PM and I have no incoming or outgoing call from any where between 5:38PM and 8:09PM, that shows that **Mr. Ketabchi's only phone statement submitted to court is fraud, forged and self made by him and was submitted by his lawyer at Trail, to cover up for the rape of January 25 2005, one day before he flew to Dubai, to false prove that Mr. Ketabchi was busy on the phone the whole time in January 25 2005 and there was no way of him raping me in January 25 2005. I submitted my original land line and cell but Mr. Ketabchi submitted forged copies of his phone statement.** After all why Mr. Ketabchi had to fraud and forge his phone statement except to cover for the rape of January 25 2005. At the trial Mr. Ketabchi sat down and lied under the oath when he was questioned from his forged phone statement.**(Trail pages 144, 145). In his order 5/13/10, Appendix C, Judge Berman claimed that he is unable to find the statements an intentional forgeries, intentionally he rejected the truth.**

411 pages of fraud and forged spread sheet was added to my case. In that fraud spread sheet, in 1/25/2005 from 4:16PM to 7:37PM, there is no phone calls, which I said the rape happen during those hours. In 1/25/2005, in that forged spread sheet, it is noted that at 4:16PM, my call was for 1067 minute, even though the next call listed is at 7:37PM, which is 201Minute later. How could I make a call at 4:16PM for 1067 minute and make another phone call 201 minute later, except this spread sheet be fraud and forged. Forged to conceal the hours which rape happened, so at

4:16PM, he put 1067 minutes of conversation for me in that forged spread sheet to cover up for the hours of rape in January 25 2005, and false prove that I was busy on the phone for 1067 minutes, so between hours of 4:16PM to 7:37PM, raped couldn't possibly happened.

Except the spread sheet be fraud and forged.
Mr. Zilberg in post Trial brief said" pages 4 to 308 of Defendant's trail Exhibit 13 Mr. Ketabchi presents what are purported to be Ms. Bahrami home telephone record. Defends Counsel spent sometime cross-examining Ms. Bahrami regarding calls made from her home based upon those records(pg 117 to 119). Respectfully, a cursory look at those record reveals that they are nothing more than a spread sheet print out without any indication that they were produced by a telephone company(page 12 second book) Mr. Dweck mislead the Trial by asking from the fraud spread sheet to false prove that I was busy on the phone the whole time so there was no way of him raping me in January 25 2005, one day before Mr. Ketabchi left for Dubai .

In the Order 5/13/10, Appendix C Judge Berman claimed that he was unable to find 411 pages of forged spread sheet with Mega forged minutes(1067 can't be minutes and second since there is no dot (., :) to separated the minutes from seconds), which was added to my case as an intentional forgeries. Judge Berman ignored the fraud made by Mr. Ketabchi and Mr. Dweck.

Back on 2005, Mr. Ketabchi at 8: 36PM used my land line 212-319-4197 to call his second cell number 201-818-0488 but Mr. Ketabchi's only phone statement submitted to the case has **no incoming calls from any where at 8:36PM.** That shows Mr. Ketabchi's only statement submitted to court is forged by him to cover up for rape of January 25 2005 Mr. Ketabchi only submitted forged copies not the original copies but I submitted my original statements to court.

A lot of fraud(erroneous error), forged, misrepresentation, and mislead was brought to my case at Trial which was found and noted by Court of Appeal and instead of changing judgment on my case, I was referred back to District Court to bring motion based on fraud, District Court took my Constitutional right of having a fair Trail. **Mr. Ketabchi fraud and forged the phone statements to cover up for rape of January 25 2005 and Mr. Dweck submitted the forged.**
In his order 5/13/10, Appendix C, Judge Berman claimed that I am not a credible person, me being credible or not credible has nothing to do with me getting raped in January 25 2005, all these testimonies of(Doctor Soltani MD, Officer Garofalo, Dr. Katz and Dr. Rosenfeld from Harvard, Patricia Murphy(psychologist), my two doormen, which Sam is a lawyer, who signed letters, my daughters) are not credible either. Only Mr. Ketabchi is credible who raped me in January 25 2005, abused, isolated, harassed me and my family, burned my breast, raped me right from the start and admitted, his only witness(his brother) who dropped the witness stand when Mr. Ketabchi admitted at the Trail that he traveled with his brothers American Passport, raped the 14 years old kid and admitted, different Soc Sec numbers and names and admitted, lied under the oath at the Trial, fraud and forged my landline and his only phone statement submitted in the case to cover up for the rape of January 25 2005 and was found and noted by Court of Appeal.

My true testimony that Mr. Ketabchi raped me in January 25 2005one day before he left to Dubai and my daughters testimonies that Mr. Ketabchi was in my apartment one day before he left to Dubai was proven. **Mr. Ketabchi left to Dubai in January 26 2005 at night** and copies of **Mr. Ketabchi's passport has no stamp from Frankfurt and was stamped in January 27 2005 in Dubai** and since Mr. Ketabchi left in January 26 2005 late at night, it takes 11 hours to reach to Dubai, it is impossible for Mr. Ketabchi to have a two days stop

in Frankfurt and his American passport not be stamped there but to be stamped in Dubai in January 27 2005, there is one possibility maybe Mr. Ketabchi again traveled with someone else's American passport from US to Frankfurt and from there he used his own American passport to travel to Dubai, **Mr. Ketabchi never submitted his original American Passport but copies. Mr. Dweck mislead the Trial by his lies about Mr. Ketabchi having a two days stop in Frankfurt, and Mr. Ketabchi sat down and lied under oath. Judge Berman in Finding Facts and Conclusion copy cat whatever Mr. Dweck said without examine the copy of Mr. Ketabchi's passport and the stamp dated January 27 2005. All lies by Mr. Ketabchi and his lawyer to false prove that me and my daughters testimony regarding me getting raped one day before Mr. Ketabchi left to Dubai to be proved false. I and my daughters were confused about the rape date but right from the start we said that I was raped one day before Mr. Ketabchi left to Dubai, which is January 25 2005.**

Mr. Dweck asked Mr. Ketabchi: And on January 27 2005 you were also in Dubai?(Trail, page 134)
A: **No. Actually I was in Frankfurt**.
Mr. Dweck asked Mr. Ketabchi: **Now, on January 28th of 2005 you were in Dubai on that day, correct?**
A: **Yes**(Trial page 134)
A: I found that Ms. Bahrami was inconsistent with how she used numbers in general. So, I would not take a changing of dates(referring to my confusion of the raped date) to be any reflection on her credibility(Trail Dr. Katz page 77)
A: **It doesn't make a difference. The point is that one day before he left for Dubai, he raped me.(Trail Ms. Bahrami, page 115)**
Q: Do you know that you swore to this date of January 27, Atosa?
A: Well, at the same time I said one day before Mr. Ketabchi departed from New York city to Dubai. (Trail Atosa,

page 95)
A: And Mr. Ketabchi was there one night before he leaves to Dubai, so, I don't know about the date(Trail Irman, page 110)

Mr. Ketabchi admitted at Trial that he used his brothers, Fred Ketabchi's American passport to travel to England back in Nov 11 1999 when he took me with him in that trip, I was also witness of that act, that's why his only witness Mr. Fred Ketabchi withdraw from witness stand even though Mr. Fred Ketabchis name was given as only witness who wished to testify and was sitting at Trial the whole time. Mr. Fred Ketabchi withdraw from witness stand because what Mr. Mohammed Ketabchi did was against National and Immigration law. Mr. Ketabchi uses other people's American passport to travel to export drug from Afghanistan to Mexico then to US, he did money laundry in front of my eyes in London in 1999. When Mr. Ketabchi raped me the first time, he was under Government Health Insurance and now he is rich. Judge Berman did not reported this matter to Immigration, and instead of calling Mr. Ketabchi as someone who is not credible, he called me as someone who is not credible, what a big discrimination.

Q: However your passport doesn't indicate you traveled to Heathrow Airport on November 11 1999 because you traveled on your brother Fred's passport, isn't that correct?(Trail page 137)
A: **I'm not sure it was mine or not(Trial page 138)**
Q. QUESTION BY MR. CERRTAIN: I'm going to show you some records and you can let me know whether they refresh your recollection as to **some of the names and birth dates that you have used on your Social Security number**.(Trail page 130)
Q. You have used a birth date of August 1955, haven't you Mr. Ketabchi?
A: **Here is my name Mohammed Ketabchi, social security number 142-68-6344. But here is different social security number**. (Trail page 129,130)

Q: Does that refresh your recollection as to how many **different names are reported to be used under your name and Social Securities, RETABCHE, SKETABCHI, MOHAMMAD FRED, ETC?(Trail, page 130)**

Mr. Dweck said I claimed that Defendant never paid $80,000 which she alleged was owed to her by him.

A: It was $6000 which I paid her cash and I took the machine.(Trail Mr. Ketabchi lies again page 139)
A: **It means after 16 years, I pay her**?(Trail Mr. Ketabchi admits that he never returned my $80,000.00)

Dr. Berger said "Well, I asked Defendant's lawyer if I included what she needed to be included and Defendant lawyer said that was fine.(Deposition of Dr. Berger, page 30) as psychiatrists, Doctor Berger should give his honest and professional opinion on patients not what Defendant's lawyer or Mr. Ketabchi asked him to put in his report, that called Malpractice.

Dr. Berger graduated from medical school in Mexico, never landed any jobs in any hospitals, that's why he took a very baseless testing MCMI3 which this testing never had an accurate result for some one with my language barrier and my cultural back ground, MCMI3 testing are only taken from American criminals, victimizer with two years of psychiatric file, not the rape victim, abuse and isolation like me. Doctor Berger based his report on MCMI3 Test and the fraud and forged reports which Mr. Dweck handed him. Also, Doctor Berger's opinion on this case was rejected by Doctor Katz, Harvard graduate and Doctor Rosenfeld from Fordham, the top specialize in taking MCMI3 test. Doctor Berger was asked to come for deposition since about 15 questions were changed in my questioner sheet, it was extremely odd why copies of my answering sheet was not given to me, right after exam even thought I asked for it. Doctor

Berger listened to rape tape and said right in front of my translator(Gohar Zahregian) I am sorry you were raped and abused but I have to write any thing Defendants lawyers asked me to write because they are paying me for that.

Q: For example, aside from Hispanics MCMI 3 has not been validated as how the test accounts for other diverse cultural group, isn't that correct?

A: Yes. What it means this test does not have an accurate result for other people from other countries and culture, and this testing only was tested up to now on patients who are American.(Trail Doctor Berger page 147, 148)

Q: And in fact, none of those scales on this testing reached critical point of 75 where some indication is given to a possible diagnosis or possible problem; isn't that correct?

A: That there was no indication that there lacked validity nor was there indication of exaggeration.(Trail page 153)

Q: Would you agree doctor that according to DSM IV, the first criteria for dysthymic disorder or a diagnosis of dysthymic disorder is on majority of days for two years or more, patient reports depressed mood or appears depressed to other for most of the day? (trail page 154)

A: That I think is what I said.

Q: Okay, and part of that benchmark, or part of the group that comprise that benchmark, approximately 15 percent of those people that it is benchmarked on are prison inmates, correct? And all of them are Americans, isn't that correct?

A: That might be the case. Yes.(Trial page 147)

Q: And a copy of transcript was not given to Ms. Bahrami correct? So there is no way for any one to know whether any of answers on the Scantron were changed or altered in any way after Ms. Bahrami left your office? (trail page 153, 154)

A: Yes, there would be no scientific way to determine that changes were not made afterward.

Q: Did interpreter make any notes on her questioner, do you have that form?

A: I don't have that, to me it was garbage.(Doctor Berger deposition, page 25, simply because me and my translator copy cat each other)

Q: Question number 14, Sometimes I can be pretty rough and mean in my relations with my family?

A: False and erased. Filled with a pencil(Dr. Berger deposition, page 26)

Doctor Berger said I came to opinion that Ms. Bahrami subjectively experienced the relationship as, at the minimum, an emotional abusive one(Doctor Berger Deposition page 37)

Q: What is the behavior described in the complaint, sir? (Ms. Bahrami's complain)

A: Multiple rapes over 15 years, physical abuse, burnings, punching, sadistic control, that's egregious behavior.(Dr. Berger Deposition, page 39)

Q: You have examined the plaintiff in this case and based on your knowledge of this case and abusive behavior toward the plaintiff the allegation of rape from your point of view from your opinion based on your expertise based on your evaluation of documents and the plaintiff could rape have happened?

A: Yes, it is possible.(Doctor Berger Deposition, page 43)

Doctor Rosenfeld Report: Ms. Bahrami described relatively severe period of anxiety, depression and PTSD symptoms in the months following her last encounters with Mr. Ketabchi.(page 62)

***Mr. Dweck was attacking Dr. Katz who submitted an* Affidavit in lieu of direct testimony that I experienced" an especially brutal rape in 2005" ,**

Q: Well, were you able to make any determination in any of the examination that you conducted of plaintiff, whether she had been raped on a particular day in 2005, sir?

A: I was able to conclude that she described a picture consistent with someone who had been traumatized and raped.(Trial Doctor Katz page 75)

Court: How did you come up with the phrase," **spurred on by an especially brutal rape in January 2005** if you had no knowledge directly, that such an incident occurred?"
The Witness: Well, as a psychiatrist I can never know that something has happened. But what I can know is whether someone, what story thy relate to me. **And I can also look for elements that make for a coherent and consistent story. And those I did find in what she described to me. And in various other records that I reviewed.**(Trail Dr. Katz, page 74, 75)
Q: What other record?
A: Well, you have my records so, I'll have to do it by memory. But I have her
deposition, I have Dr. Berger's reports, I have Dr. Berger's notes. I also have Dr. Rosenfeld's report.
Q: Doctor, you have submitted in you affidavit that she suffered from depression; am I correct, sir? And that chronic depression could be brought by any kind of trauma?(Trail page 75)
A: That's correct. And that is true.
Q: Would the murder of her sister 27 years ago be a cause for depression?(Trial, page 75)
Q: **Would the death of another sister parastu seven years ago, be another basis for plaintiff chronic depression?**

Mr. Dweck again mislead the Trial by asking Dr. Katz, if my sister died 27 years ago or other sister of mine died 7 years ago, only I lost one sister parastu and she died 14 years ago (Autopsy report, page 157) Trail was in late 2008 and Mr. Ketabchi raped me in January 25 2005 Mr. Dweck wanted to false prove that my sister died 3 years before the rape of January 25 2005 that's why I was depress because of her death not the rape of January 25 2005 Mr. Dweck lied and mislead the Trail.

Q: Doctor, I want to show you this record from Dr. Surur's notes, do you see here where it says, "Sister killed 27 years ago."(Trail page 81)

Lie, Also, Mr. Dweck at Trial claimed that I sent a harassing letter to Dr. Surur. Judge Berman in judgment of 5/13/10 copy cat Mr. Dweck. I never sent such a type letter to Dr. Surur, if I ever send a letter I will use my hand writing. I took a copy of my records from Dr. Surur and contains no notes like that. I saw Doctor Surur on July 2010 and he asked me to ask Supreme Court to call him, so Court will hear the truth 212-734-1239 for accuracy of my wording, this letter was forged by Mr. Ketabchi to mislead the Trial, just like two phone statements which Mr. Ketabchi fraud and forged and Mr. Dweck added to the case.

Mr. Dweck said at Trial and his brief, and Judge Berman ignored **Declaration of Doctor Jahangir Soltani completely** and copy cat Mr. Dweck in Finding Facts and conclusion that I did not see a doctor regarding the rape. Mr. Dweck mislead the Trail, **Declaration of Doctor Soltani** was submitted in February 28 2006 to District Court, pages 9, 10

" Doctor Soltani says on Saturday, January 29 2005 I saw Ms. Bahrami, I observed multiple concussions all over her body, the marks were black and blue".
" I questioned Ms. Bahrami about what had happened, she started to cry and explained that she was raped a few days earlier", " She was hysterical and seemed to feel shame. It was my perception that it was hard for Ms. Bahrami to reveal to me that she was a victim of rape because in Iranian culture a woman is blamed for becoming a rape victim".
Q: Did your mother ever to you knowledge report to any of the doctors that she went to that she was bruised or beaten or had scars?
A: I do not know.(Trail Transcript page105)
Q: After your mother told you that she was raped, did you take her to a hospital or did you insist that she go to a hospital?
A: I actually told her, go to the hospital but she was scared

because Mr. Ketabchi always harass my mom and us-(Trail Atosa, page 106)
The Witness: I encouraged her but she was so scared she was very much scared.(Trail Atosa, page 107)

I did not go to hospital the same night of rape but I was visited by Dr. Soltani in January 29 2005 and told him that I was raped a few days earlier(January 25 2005).

Mr. Ketabchi signed and got all my medical record from Oxford Health Insurance without my knowledge, permission or my signature(Mr. Dweck in his Appendix to Court of Appeal pg 8 to 118), it is not an allegation as Judge Berman claimed in his Order 05/13/10. Dr. Akavan called me212-333-7661 and said he received a typed letter and signature from Mr. Ketabchi to release my medical record, but Dr. Akavan did not released my medical information since he did not see my signature but the typed one. You can call Dr. Akavan for accuracy of my wording. They got my medical record from Oxford itself without my permission and add letters to it, when I get time, I will follow that matter. My medical record is not the issue in this case, I did not file a complain for malpractice against any doctor, I am in this court because I was raped and my medical record has nothing to do with the fact that I was raped except the part that I got HPV sickness from Mr. Ketabchi which was admitted by him in his deposition. Mr. Ketabchi had HPV long before he raped me first time. As a result of HPV sickness I got CIN3 which is cancer, I had a Con Biopsy on my Cervicx. A few years later in 2004, my sickness came back, I went to Dr. Gary Goldberg Oncologist surgeon and had a very big surgery phone number 718-405-8210.

All my doctors after I purchased my Health insurance in 1998, referred to Mr. Ketabchi as my husband, like Dr. Surur and Dr. Seigel, a few doctors met him in person, talked to him on the phone and they all analyzed him, as someone controlling,

abusive, Dr. Martin MD called him a rapist, Dr. Fingold MD "you are sleeping with your enemy", crazy, mentally sick, obsess. Mr. Ketabchi forcefully made me to wear ring and as Dr. Berger said in his deposition, **Multiple rapes over 15 years, physical abuse, burnings, punching, sadistic control, that's egregious behavior.(deposition page 39).**

Q: **You indicated you prepared your report based on data you had**? One of them was claim of rape? Obviously you excluded that data in your report? (Dr. Berger deposition page 33,34)

A: **Dr. Berger says, yes,** and yes. No I did not include that data in my report.

Q: Did you know Muslims could have a temporary marriage with someone, yes or no?

A: I did not know that.(Dr. Berger deposition page 41)

Q: Did it ever cross your mind that Ms. Bahrami reported to her doctors about husband, she was referring to defendant? (Dr. Berger deposition page 41)

A: Not at the time when I reviewed those records

Q: Now that you know about this fact, Dr. Berger, is it possible that she may have referred to the defendant, as her husband, in those complaints to the doctors?(Dr. Berger Deposition page 41)

A: Yes, I'm assuming she was referring to defendant in those reports.

I was raped in January 25 2005 and truly abused, I was caged in my own apartment, had a curfew, treated like a property as Officer Garofalo said, was not allowed to take shower, he hit me, harassed to kill me and my family or run us over with a car, raped me right from the start, attempt to rape my daughter a few days before he raped me in January 25 2005 right in front of my eyes , he burned me, pulled my hair, hit my head to the wall, slapped me right in front of people, humiliated me in front of my coworkers to the point that I left my job, the sickness that I got from him and lost so much as a result of that,

I was going to college, he made me leave the school, when any one called me, he sat down next to me and made me to call them and curse them, when my mom was in a dead bed, he did not let me to see my mom and say good bye for last time late Dec 2003, Mr. Ketabchi did not let me to go to my mom's funeral only because I would be late for my curfew, I had to wear a marriage ring and introduce him as my husband, he was very aggravated about that, my life was impossible to live, I was treated like a very abused animal, who could not speak up, When people see an abused animals, they feel sorry for them, I am a human being and yet with all the submitted evidences plus fraud and forged on my case, Judge Berman ignored and discriminated against me. I am here for justice, I am a true victim of January 25 2005.

Mr. Dweck accused My x husband which he was an Iranian Bahai Army General working for X Shah of Iran, also Governor of Tehran, Iran, of hitting me and that's why I have sign of depression. Rape of January 25 2005 caused me to have depression and was not the first time Mr. Ketabchi raped me, there is a rape transcript, that January 25 2005 was not the first time I was raped by Mr. Ketabchi, my x husband never hit me and he lives in Iran and I left Iran almost 20 years ago, and my x husband has never been in the US.

Q: Would the fact that plaintiff was beaten by her first husband in Iran be a basis for her to suffer from chronic depression?(Trail questioned by Mr. Dweck from Dr.
Katz page 75)

Q: Would the fact that she immigrated to this country to escape from her husband beating her in Iran be a basis for her to have .....?(Trail by Mr. Dweck from Dr. Katz page 76)

REASON FOR GRANTING THE PETITION

I am a true victim of rape of January 25 2005 one day before Mr. Ketabchi left to Dubai and I said that to Officer

Garofalo when I saw her the first time in February 16 2005 that's why same night she wanted to go to Dubai and bring Mr. Ketabchi back to the US. I also said the same thing to Detective on the case, Detective Jackavino, that's why he went to Mr. Ketabchi's front door in New Jersey, also, Masque Noor-Va-Danish and sent numerous notices to Dubai for Mr. Ketabchi to come back to the US, so Mr. Ketabchi be arrested for rape of January 25 2005. The day Mr. Ketabchi came back from Dubai, I was in Detective Jackavino's office to get the copy of rape complain, Detective Jackavino , his boss and two of their colleagues were there. Detective Jackavino was going to the airport to take Mr. Ketabchi to jail for rape of January 25 2005 and **I got protection number 2005-017-01888 from Criminal Court**. Why Detective Jackavino's report was never considered by Judge Berman, why nothing was considered at Trial, even when I asked for my rape tape to be played, Judge Berman did not allow that, because it would be documented at the Trial that I was raped from the start, also, the tone of Mr. Ketabchi voice and harasses would show, what I went through.

At Trail, Mr. Dweck submitted fraud and forged(erroneous error) phone statement with knowledge of fraud, plus a lot misrepresentation, and mislead brought in to my case, which was noted in Court of Appeals judgment but instead of Court of Appeal changing the judgment on my case, referred me back to Judge Berman, thought Judge Berman made a mistake based on fraud and forgery but I brought motion based on fraud just to prove that Judge Berman's court was 100% favorism even though with proven fraud.

I brought a motion based on fraud 60b3 in **March 2 2010**, and I was discriminated by Judge Berman for the second time, instead of Mr. Dweck reply to my motion within 3 to 5 days, **it took Mr. Dweck almost a month to send a letter to Judge Berman and asked for time extension up to April 9 2010, even with that time extension Mr. Dweck submitted his reply motion one more month later than court's order in April 26**

2010, and nothing was said by judge but defending Mr. Dweck and his illegal act, saying it was an innocent mistake, **how could Mr. Dweck make a mistake about the date that he specifically ask for, April 9 2010, any fraud or illegal act from Ketabchi and his lawyer was called an innocent mistake or an unintentional forgery just for me to lose my Constitutional right in a legal way, a perfect discrimination.**

Judge Berman ignored the fraud and forged phone statements by Mr. Ketabchi and claimed, " **court is unable to find the documents an intentional forgeries".** I took the phone statements, Mr. Ketabchi's and mine to phone companies experts, my lawyers, Mr. Zilberg , Mr. Certain and their Associates, all agreed Mr. Ketabchi forged his and my phone statements, at **6:49 (917-225-0072)Queens** Mr. Ketabchi called my cell and I have no incoming call bet 5:38 to 8:09 since in cell phone statements all incoming and outgoing calls are being recorded, this shows Mr. Ketabchi's only submitted phone statement to case was forged by him to cover up the rape of January 25 2005(Mr. Ketabchi only submitted copies of his statement to the court and I submitted the original copies of my cell and landline). **Mr. Ketabchi openly fraud and forged his only submitted phone statement and judge Berman claimed it is not an intentional forgeries. Mr. Ketabchi spent hours to fraud and forged his phone statement, it needs a lot of work and skill to do this forgery, surely Ketabchis original cell statement will look different with what Ketabchi submitted, but Judge Berman supported and ignored my Constitution right, admired Mr. Ketabchi's piece of art and called it not an intentional forgeries.**

411 pages of fraud and forged spread sheet was added to my case. In that particular spread sheet, in 1/25/2005 from 4:16PM to 7:37PM, there is no phone calls, which I said rape happen between those hours. In 1/25/2005, in that forged spread sheet, it is noted that at 4:16PM, my call

was for 1067 minute, even though next call listed is at 7:37PM, which is 201Minute later. How could I make a call at 4:16PM for 1067 minute and make another phone call 201 minute later, except this spread sheet be forged, all that to cover up for rape of January 25 2005. Judge Berman claimed "court is unable to find the documents an intentional forgeries", Appendix C, page 6 , how could 411 pages of fraud and forged spread sheets with Mega forged minutes(1067 can't be minute and second since it has no dots (., :) in the middle to separate minutes from seconds)to cover up for the hours of rape in January 25 2005 be added to my case, yet be called not an intentional forged. Judge Berman again ignored the obvious frauds on my case.

Judge Berman also ignored all the misrepresentation and evidences submitted, Declaration of Doctor Soltani, Deposition of Officer Garofalo, testimony of Dr. Katz, Harvard graduate, report of Dr. Rosenfeld, Deposition of Dr. Berger, two sign letters from my doormen, testimonies of my daughters, rape tape and the transcript that Mr. Ketabchi admitted of raping me and a 14 years old boy, the picture of the burn mark, burned by Mr. Ketabchi, and my testimony that I got raped in January 25 2005, Mr. Ketabchi admitting traveling with his brother(Fred Ketabchi) American passport and his brother withdrawing from witness stand, multiple Soc Sec numbers, names, passports, fraud and forged phone statements to cover up for rape of January 25 2005.

CONCLUSION

I am a victim of rape of January 25 2005, I lost my Constitutional rights in District Court, my right of having a fair Trail and my right of having a true judgment on my case. Court of Appeal found fraud(erroneous error) forged, mislead on my case. I am a true victim, please judge me the way you want to be judged if you were me, I was raped in January 25 2005 I was abused, harassed to be killed, not only me but also

my family, I was watched every minute of my life as Mr. Ketabchi admitted in rape tape, he over powered my life the way that I forgot myself, sometimes I wished that I was never born, and what a big stigma I have became for my family. I was like a body with no soul who carried her casket over her shoulder, my experience was so horrifying that I felt no power to continue and it was not my choice of being in that relationship, I was entitled to that life by destiny and his constant harasses made me to sacrifice for my family. I lost my youth, beauty and health in Mr. Ketabchi's jail. I am washing this letter with my tears, and still feel the pain when I remember that nightmare, I was raped and abused from the start to the end..

Thank you,

Irandokht Bahrami

APPENDIX A

1. Court of Appeal decision 1-3
Dated February 11 2010

UNITED STATES COURT OF APPEAL
FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, in the City of New York, on the 11th day of, February, two thousand ten.

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IRENDOKHT BAHRAMI,
Plaintiff,

V.

09-1199-CV

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

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For Appellant: **IRANDOKHT BAHRAMI, Pro Se,** New York, NY

For Appellee: **JACK S. DWECK, Then Dweck Law** Firm LLP, New York, NY

Appeal from a judgment of the United States District Court for the Southern District of New York(Berman)
UPON DUE CONSIDERATION, it is hereby **ORDERED, ADJUDGED AND DECREED** that the judgment of the District court is **AFFIRMED.**

Appellant Irandokht Bahrami, pro se, appeals from the judgment of the United States District Court for the southern district of New York (Berman, j.), dismissing her state law sexual assault and rape claim . We assume the parties' familiarity with the facts, procedural history, and issues on appeal.

In reviewing the district court's decision in a bench trial, we review the district court's conclusions of law de novo and its findings of fact for clear error. See United States v. Coppola, 85F.3d 1015, 1019 (2nd cir.1996). Under the clearly erroneous standard, "[t]here is a strong presumption in favor of a trial court's findings of fact if supported by substantial evidence," and the court "will not upset a factual finding unless [it is]" left with the definite and firm conviction that a mistake has been committed." Travellers Int'l, A.G.v. Trans World Airlines, Inc, 41F.3d 1570, 1574(2d Cir. 1994) (citations omitted). Moreover, this court must "give considerable deference to the district court's credibility assessment and to its determination as to what inferences should be drawn from the evidence in record." Ezekwo v. N.Y.C. Health & Hosps. Corp;940F.2d 775, 780 (2d Cir.1991).

Here, the burden was on appellant to prove by a preponderance of the evidence that the alleged rape occurred. See Dean v. Raplee, 39 N E. 952, 954 (N.Y. 1895). Because the district court's finding are supported by substantial evidence, Appellant has not satisfied the high burden of showing that the court's finding were "clearly erroneous." see Travellers Int'l, A.G., 41F.3d at 1574.

Appellee has moved to strike certain portions of Appellant's appendix on appeal, contending that the documents were not admitted into evidence or considered by the district court. We DENY the motion with regard to the September 2005 letter submitted by Appellant's former attorney to magistrate judge Kevin Fox, as that letter was dockets on the district court's docket sheet and was part of the record on appeal. We GRANT the remaining portions of Appellee's motion.

To the extend that Appellant argues that the judgment below depended on fraud in the form of fabricated telephone records, such relief should be sought in a motion in the district court under Fed. Civ. P. 60(b)(3), rather than as part of this appeal. Rule 60(b)(3) provides that, "[o]n motion and just terms, the court may relieve a party ...from a final judgment, order, or proceeding for... fraud..., misrepresentation, or misconduct by an apposing party." Any such motion must be filed "no more than a year after the entry
Of the judgment" 60(c)(1); accordingly, in this case, a motion would need to be filed no later than March 4 2010. Of course, we express no opinion on the merits of this issue.
We have reviewed Appellant's remaining arguments and find them to be without merit. For the reasons stated above, the judgment of the district court is Affirmed.

APPENDIX B

SUBJECT	PAGE
1- **The translation of the Rape Tape**	1-8
2- **Declaration of Doctor Jahangir Soltani's**	9-10
3- **Deposition of Officer Angela Garofalo**	11-20
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11- Copy of Mr. Ketabchi's **Passport Dated January 27 2005**	**158**
12- District Court's Judgment dated 03.04.09	159
13- **Police Report Filed 2/28/2005 4.12.05, 02.28.07**	**160-161**
14- Picture of the **Burn Mark, Mr. Ketabchi burned my breast**	**162**
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APPENDIX B

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17- Irene Bahrami's landline statement **(In 2005, I had no local service, with Broadview Networks Trade Mark)**	165
18- Irene Bahrami's forged lanline statement **(Forged by Mr. Ketabchi, when I had no local service, with No Broadview Networks Trade Mark)**	166
19-Copies of Mr. Ketabchi's only phone Statement submitted and it's forged by him.	**167- 168**
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21- Finding of Facts and Conclusion dated (02.27.09)	**171-183**

Woman: I don't want you to tell Ferydoon to lie.
Man: You don't want it, I don't care.

Now the man in very loud shouting and in a harassing voice and manner throughout the whole conversations he starts.

Man: Listen carefully to what I am saying to you, you promised me, you stupid.
Woman: I was on my promised I came directly home on time.
Man: No, I told you, you should be home before the sunset.
Woman: Right I am home and is day light, and it's rainy outside that's why it looks dark outside.
Man: Look, I don't like it, when you play childish games with me, one hour late, two hours late, 15 minutes late, you say it's rainy, I don't know what hell you mean.
Woman: I am only 2 minutes late and is such a small difference Homayoon.
Man: I don't care, you should be home before sunset.
Woman: did you call the people who are working for you and asked them, how rainy is it in here.
Man: You stupid, don't make me scream louder than this, I don't know what a hell you're talking about, you could go out at 10 AM or 4 PM, I don't care when, you should be home before sun set. Do you get it or not. Ha…ha
Woman: I wanna know, what Fraydoon will do if his girlfriend comes home 2 minutes late.
Man: Don't lecture me with your stories, you should be home before sun set. I wont tolerate 5 minutes late, you should be home before sun set. I don't care about what time it could be 10AM, 2PM, 3PM, !PM, I am not a person that you can play a game with, I am dead serious. Do you listen to me or not, you promised, that you would be home before sun set.
Woman: What about the days that are cloudy, what am I suppose to do.
Man: I don't care, life is timing, it's timing, do you understand,

it's timing, life is base on
Timing, remember, I told and you didn't listen to me. You said 10 minutes late it's ok, or 15 minutes late it's ok. The problem is not 10, or 15 minutes and it's not that, I don't trust you, non of these, the problem is lake of respect to my word. You should respect my word and came home exactly on the time of your curfew.
Woman: Of course I respect you, if I did not respect you.
Man: I don't like stories and you lecturing me, I don't have patients for these talks, you should be home exactly on the curfew time that I indicated for you and 15n minutes even earlier than that, not 5 minutes later than your curfew. 15 minutes earlier, does it go to ears or not, does it or not…ha…ha

WITH CRYING VOICE WOMAN STARTES:

Woman: Yes sir it does
Man: If it's in your cars then you should be home by 6 PM.
Woman: But it use to be 7 PM
Man: No, no it's over, those times are over, you should be home by 6 pm.
Man: Again you started, you are so…sneaky.
Woman: No you're sneaky, you ruined it.
Woman: You do this on purpose.
Man: I am being nice and giving you space so…you can do this.

CRYING HARDER WOMAN:

Woman: 6 PM is too early, before you said 15 to 7PM now, you say 6PM its so…early, you are so sneaky.
Man: I don't care either you want this or not.
Woman: No, at least 15 to 7 PM please, at least 6:30PM, 6PM is so…early.
Man: Look I have witnesses that watching you. Listen you should go out earlier & go to the gym earlier.
Woman: 6PM is so…early, it's beginning of the day.
Man: From 6:30 I would let you and I have witnesses that are watching you, but remember 6:31 because it would be one

minute late then it would be a big…problem.
Woman: Yesterday my curfew was 1- minutes to 7PM.
Man: No listen 6:31, I have witnesses who are watching you. Listen very carefully to what am I saying, you are not a kid, you are a big woman, you have brain& other things, 6:30PM would be right now, but tomorrow, if it gets darker earlier, like 4PM, or the day after tomorrow, or a month later then you should come home much earlier.
Woman: That means I have to be home by 4PM.
Man: Yes, you have to be home by 4PM, if you want to go to exercise, go to exercise early in the morning. You are not working, if you worked up to 5 PM or 6 PM then you would have a reason.
Woman: Then what. When I used to work, you bothered me and said " you have to be home by 4PM, and every day you fight, beat me & made it very difficult.
Man: Now right now is 6:30, but one second late, I am telling you one second, then don't blame me, see how many times I forgave you, 5 or 6 times you came home 5 or 6 minutes late 10 minutes late and yet I am so…forgiving that even I got so…upset, but yet I forgave you.

CRYING WOMAN SAYS:

Woman: But 6:30
Man: 6:30 yes I will call your home number and if you don't pick up the phone then it will be over for you. 15 minutes before 6PM remember, not at 6:15 and I don't want you to say I am taking elevator upstairs to my apartment.
Woman: You know I am not going anywhere, I don't go anywhere.
Man: I know then why you don't of home earlier.
Woman: Why you make the life narrow and tight for me.
Man: Is not life you sit at home from morning to night, what you do ha…what do you do.
Man: Unclear
Woman: You think when I go to exercise in the afternoon

someone is there, the time that I go there noone is there.
Man: You have to respect to this curfew until then I decide and will change it bit later.
Woman: I always respect, last year every day you fight about this and then you made the curfew at 5 and then you made the curfew at 4PM.
Man: Yes, yes see who's fault is it now.
Woman: You, you make the life very hard for me and yourself.
Man: No, no, no
Woman: I am not hard on you, because I know you are a man and you have to it's ok you be out up to late.
Woman: Then a minute or two late again you change your mind again.
Man: Yes you right, for one month, if you exactly on time of your curfew.

CRYING WOMAN SAYS:

Woman: I really, really sacrified everything, I even wanted to get married a few times and you said that you will kill me and you jump in front of people and slapped me and called me a whore
Man: Look you should come home exactly on time of curfew, this is the most important thing.
Woman: I am afraid that, if I be one minute late, and you start fighting & bothering me like crazy.
Man: So…you know it well, then why you do this to me, let me tell you something, you should respect me and come home 15 minutes earlier than your curfew, not 10 minutes later, that means, when I tell you your curfew is at 6:30PM, then you have to make it home by 6PM instead of 6:30.

CRYING WOMAN SAYS:

Woman: I always try my best to be on time, but sometimes a minute or two late and this happens.
Man: This week 4 times you were late.
Woman: No I wasn't late this week, you said it was ok.
Man: No, you calling me in middle of your way close to home it's not a big deal for me.

Respecting me is the most important thing. You are disrespecting me when you came home later then your curfew time, do you know what I mean.
Woman: What are you talking about, I always respected you.
Man: If you respect me more and do all these and be on time.
Woman: I had a dream that I finally did it, you put me under so…much of pressure, that I finally ran away, but don't think, I may even kill myself, because you are bothering me so…much.
Man: That's good.
Man: You said, you will do what I told you to do.
Woman: After one month what happens
Man: We're going to sit and talk about it, if you do this for one month on time.
Woman: Ok after one month what is it ok if I come home anytime.
Man: No, we don't have that you come anytime, what you mean, where you go, where you come, what you do.

Man: Tell me something if I get married, what will you do.
Woman: Nothing, I haven't done anything when you raped me, you think if you get married I would anything, oh please,
Woman: Remember you wanted to show me a cheaper house and I was very much afraid to get in to the house with you, and I said, that I have to leave soon and go back to work at my store, remember, I said today I have no employees…But Bahar one of your employees who was working in 14 street then.
I was afraid of you. You told me, you need to go do your prayers(Namaz) on time and I said ok. Then while you were doing prayers I was thinking by myself, and asked God for his forgiveness from that I thought of you may be dangerous while you are so religious and doing prayer(Namaz).
Man: Let's not talk about it now.
Woman: No let me tell you the rest Homayoon, while I was thinking that you were such a nice man while you were doing prayer(Namaz) and I trusted you and respected you after your prayer, but you after finish praying, you came up to me and said

let me show you the other room please, and I said it's ok it's already to late and I have to leave soon, but you insisted and said this house very low price and I said great ok and when you try to show me the other room, instead you raped me, after that I really hated you.

One night you took poor Mona to McDonalds up to 2AM and called me many times, but I did not pick up the phone, I all the time runaway from you.

After that you said I am going to do my prayers(namaz), I thought that you probably will rape someone after your prayers(namaz) and you think is very normal and nothing bad about it.

Man: I remember, I talked to God and thought with myself and said to myself ALHAMDOLALA it's a Arabic word in English means(thank God), that she didn't make a problem and did not make it hard.

Woman: Ya right you are ridiculous, I felt so disgusted, and so dirty and so…guilty. You looked at my legs and said "your legs are so…beautiful", but I hated you and I was so…angry.

For a few years I was running away from you, but I don't know probably that's my destiny and my life that I have to live like this.

Man: Yes that's life.

Woman: After 2003 you came up to me so in a very in appropriate way and told me that you met a woman that you like to take her and me both of us to bed together.

This is way too much, it's going very far. I wanted to get married and you did not let me You slapped me, said that you will kill me and will ruin my reputation and will say that in lies that I am a whore and I slept with you, even though I did not, you are the one who had forceful sex with me and raped me.

I am such a good person, I did not have any experience and, I was very young. I was the one who should told you that you have a wife and I could go and tell her what you did to me. You slapped me and beat me and you said you will go and tell everyone in lie that I am a whore and that I slept with you, which

was very much opposite you are the one who sleep with me with force. I know why something I am so…scared.
Man: why
Woman: You always say that if I leave you, that you will throw yourself out from the Brooklyn Bridge.
And I believed in you, after the rape in your father's house, I never wanted to see you ever, I was very much scared, you told me if I get married, you will beat a hell out of me, even though you kept me with force and harassing, remember this.
Man: Remember you say all this things and after 4 years I get the news that you went to a party.
Woman: I did not go to any parry. When I was working at CES there was a conference meeting in Marriot, and because you thought my skirt was a little short, you ripped all my clothes.
Man: I called ten times and I could not hear anything.
Woman: I watch a sexy film and the film was just like your life story you told me about that you had sex with that man and woman together, very sexy, it was just like your life story. It is just like Homayoon Saadat Ketabchi, a book should be written about you.
Man: Thank you sweetie.
Woman: I thought maybe it's your life story, because you said you did the woman then the man then the man, but his film was two men and a woman together.
Man: No me first did the man, then I did the woman, then I did the man in his ass, so then he did his wife, then while he was doing his wife, I did him from his ass again, and he really liked it.
Woman: how many times you did them a day.
Man: Not many times a day, I did them every two or more weeks, or every time that I went there, I did them,
Woman: Was the man moaning a lot when you did him.
Man: Oh God he loved it, his saliva was running, and his ass was so…wet.
Woman: How about the woman.
Man: She loved it too.

Woman: How was his ass.
Man: Good, white and tight, but of course my penis was so…hard out of so much excitement the wife was not my friend, but the man was.
Woman. On 2003 you offered me to sleep with Farrah Shirazi, but I did not except it, I said never.
Man: I said I do the man, then I do you.
Man: If I stay here more than two months, I want you to come to Dubai then we go back together to America together.
Woman: how about that young boy that you did have sex with.
Man: That boy did only two or three times, and he did not like it. He was in pain and did not like it.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
ECF CASE

IRENDOKHT BAHRAMI, 05civ. 3829(RMB)(KNF)

Plaintiff,

V.

MOHANNAD ALI SAADAT KETABCHI ET AL..

Defendant.

I, **Jahangir Soltani**, being duly sworn, make the following declaration, pursuant to 29 U.S.C. Section :746:

1. I am not a party to this matter.

2- I give this testimony based upon my personal knowledge and belief.

3- I am over the age of eighteen.

4- I am a medical doctor.

5- On Saturday, January 29 2005, I saw plaintiff Irandokht Bahrami also known as Irene Bahrami, I observed multiple contusions all over her body. The marks were black and blue.

6- When I questioned Irene Bahrami about what had happened, she started to cry, and explained that she was raped a few days earlier on or about January 27, 2005 by Mohammad Ali Ketabchi. She was hysterical, and seemed to feel shame.

7- It was my perception that it was hard for Irene Bahrami to reveal to me that she was a victim of rape, because in the Iranian culture a woman is blamed for becoming a rape victim.

I have given the foregoing testimony under the penalties of perjury.

Dated: Queens, NY

February 28, 2006

___Jahangir Soltani, M.D

(The original copy contains Doctor Soltani's signature)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IRENDOKHT BAHRAMI,
Plaintiff,

V.

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

Defendant.

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630 Third Avenue
New York, New York

February 14, 2006
11:10 A.M.

DEPOSITION OF ANGELA GAROFALO, a non-party witness herein, taken by the Plaintiff herein, pursuant to subpoena and order, and held at the above-mentioned time and place, before a Notary public of the State of New York.

EXAMINTION BY:
PLAINTIFF'S LAWYER

Q: Please state you name for the record.
A: Police officer Angela Garofalo.
Q: Officer Garofalo, how long have you been a police officer?
A: March 1st will be six years.
Q: And please state your precinct?
A: The 17th precinct, 167 Eat 51st Street, New York, New York 10022
Q: And the department in which you work?
A: New York city police Department.
Q: And are you a police office?
A: Yes, I am.
Q: What department do you work in?
A: I am, at the 17th precinct, a domestic violence officer.
Q: Prior to today, had you ever heard the name Irene Bahrami?
A: Yes.
Q: And in what year did you first hear that name?
A: 2005
Q: Do you recall ever meeting Mrs. Bahrami face- to- face?
A: Yeas.
Q: And on the first occasion that you met her, well, did you meet her on more than one occasion face- to- face?
A: Yes.
Q: The first occasion that you met with her, did you meet with her with any other police department employee present?
A: Yes.
Q: Please state the name of the other employee of the department who was present?
A: Miss Evelyn Ortiz.
Q: What is her job title?
A: Police Administrative Aide.
Q: Do you recall the time of year in 2005 that you first met with Miss Bahrami in the presence of Miss Ortiz?
A: Approximately April of 2005.

Q: On that occasion, do you recall anything you may have said to Miss Bahrami and any observations that you may have made?
A: Yes.
Q: What do you recall in terms of your observation of Miss Bahrami; how did she appear emotionally and physically?
A. When she came into the station house she seemed very concerned and uneasy and very nervous, and myself and Miss Ortiz were trying to--because there's a bit of language barrier, we were trying to establish what the subject of the complaint was and what was wrong with Miss Bahrami.
She was basically telling us that she--what it sounded like was she was being abused and she was fearing for her safety and we were trying to get more information and details as to whom was abusing her, what was happening, where this was taking place, but Miss Bahrami was very reluctant to give us any information, because she was in fear for her safety, her physical safety and go ahead, I'm sorry.
Q: In your estimation, did she appear to be generally in fear?
A: Yes. She was with a female companion and I even tried to separate Miss Bahrami from her friend so I could speak to the friend and maybe somehow urge the friend to convince Miss Bahrami that there was --all we wanted to do is help her and that no one-- as far as the police department, we're certainly not trying to hurt her. We want to do everything we could in our power to protect her.
Q: Now, in your years of experience have you come to identify certain indicia in women that indicate they are victims of domestic violence?
A: Restate that.
Q: In your past experience have you become familiar with traits of women who are actual victims of domestic violence?
A: Absolutely, yes.
Q. Approximately, how many of these cases have you come across?
A: Oh, a couple of hundred, hundreds of cases.
Q: **Did Miss Bahrami appear to have the indicia of women**

who are victims of domestic violence?
A: Yes.
Q: Please state the facts that support this belief?
A: It's not uncommon for victims, especially women victims of domestic violence, to be nervous, to be fearful of their physical safety and also fearful of repercussions if they do make a police report. Most of the time female victims of violence, domestic violence, because there's emotional, there's verbal, but most victims of physical domestic violence are afraid of the repercussions if they do make the police report. And what also comes into play with that is emotional, they usually lack or experience low self-esteem.
At one point Miss Bahrami even stated to me that because of the --I believe it's in **Iranian culture, that I said to her, you know, he can kill you**. If he kills you, where would you-- what good would that be, you know, we're doing everything we can to prevent that. And she said, " We'll, if that's what is to happen, then that's --that's the will of God." I said, "but God did not put us here to be doormats, he put us here for a reason, to help you and here in America we don't allow women to be treated like that. There are consequences to face for that for anybody that abuses women.
Q: Did she appear to have the indicia of a victim of physical domestic violence?
A: When she came into the station house she had no visible bruises, but the visible --the physical bruises heal, but I could see the emotional repercussions and just by her body language how nervous she was. **She was very fearful, very fearful**, which was **getting me even more nervous, because now she does not want to give us any information at all as to who this person is that head been abusing her and I was so frustrated, because I wanted to go after the guy right at that moment, but because she would not give us the information there was nothing I could do.**
Q: Do you recall whether you prepared any documents on the occasion of her visit?

A: Not with my first visit, no with my first meeting her. That was the --that was when Miss Bahrami would not give us any information at all.

Q: And that first visit, was that prior to April or in April?

A: I honestly don't recall.

Q: Now, you indicated there was a second visit. Was that second visit in April or another date?

A: Apparently, it was in April, because at that time I had taken a report from Miss Bahrami.

Plaintiff's lawyer: I am going to ask the court reporter to mark as Garofalo Exhibit A, a two-page document entitled New York City Police Department OMNI Form System, complaints and it's complaint number 2005-017-01888. I am also going to ask the court reporter to mark as Garofalo Exhibit B a document that is entitled, "Report 1888," and it is dated April 12, 2005, it appears to be a form whose blanks were handwritten in. Thank you.

(whereupon, at this time, the above-mentioned documents were marked by the reporter as Plaintiff's Exhibit's A and B for identification, as of this date.)

Q: Officer Gaofalo, I am going to hand you Garofalo Exhibit A and Exhibit B; would you please review those two documents and just indicate when you have completed your review?

(Short pause in proceeding.)

A: Yes, I am finished.

Q: If you would look at Exhibit A, do you know whether this report was first entered on to a computer and then printed out?

A: Yes, that's how it's generated. We take a handwritten report when the complainant comes into the station house and then it's submitted. It gets reviewed by the desk officer, then it's submitted to the police administrative aides for data entry. That's how the case number gets generated, which is the complaint number.

Q: All right, now, there's a section that says, "A-G-G harassment ," what does that mean?

A: That means aggravated harassment.

Q: By that term of art, what is included, what kind of conduct is

included in that?

A: Any threats that take place through electronic means, be it the phone, fax, E-mail, cell phone, text messages, regular mail, anything like that would fall under aggravated harassment. In this case it was threat. It could we repeat phone calls, it could be threats over the phone and **in Miss Bahrami's case she was also--she was being victimized not only physically, but through phone calls.**

Q: And now beneath tat there appears a PD Code, will you read what appears next to that?

A: 639 Aggravated harassment, second degree.

Q: What does that mean?

A: The PD Code, I'm not sure what the 639 means. It's not the Penal Law code. I believe that's the code--it maybe the code that's in our computer system.

Q: And where it says key code, will you read the information that appears there?

A: Well, it's an abbreviation, O-F-F period, against, well, the abbreviation for against, A-G-N-S-T, another abbreviation, P-U-B, another abbreviation, O-R-D, and another abbreviation, S-E-N-S-B L-T-Y, and then the end sign.

Q: What does that mean? What do the abbreviations stand for?

A: I'm assuming it means offense against public order sensibility--I honestly don't know how that ties into aggravated harassment. I believe it's something that is automatically generated in our computer system.

This is --the Omni form system is setup a little different than this, so when you go to key in the offense it might be fall under one whole category, but it doesn't mean it's the Penal Law part, it's just the computer code part.

Q: Now, as to the narrative, if you would just review that? Does this narrative reflect the information that you supplied to the person who did the data entry for the narrative?

A: To the best of my knowledge, yes.

Q: And if you would look at the last sentence? Please read the last sentence of that narrative.

A: Yes. "P.O. Garofalo interviewed complainant victim," Yes, that's me.
Q: Okay. If you turn to the second page where it says wanted, would you please read the name that appears there?
A: Okay, do you need me to spell it out also or just.
Q: Yes, Please.
A: The last name is, I will try to pronounce it, Ketabchi, K-E-T-A-B-C-H-I. The first name is Mohammed, M-O-H-A-M-M-E-D, middle initial is S as in Sam.
Q: And there's a description that appears there?
A: Yes.
Q: Is this information that you obtained from Miss Bahrain?
A: Yes.
Q: And where you have address, could you read that into the record?
A: Yes. 66-70 East Pierrepont, P-I-E-R-R-E-P-O-N-T, Avenue, Rutherford, New Jersey 07070. No apartment number.
Q: And where it says crime data below--
A: Yes.
Q: --Could you explain that entry for modis operandi?
A: Okay. Again, with this, with the Omni form system, it asks you--there are separate fields, the first field being the wanted person's modis operandi. I typed--well, I wrote, handwrote these in on the original handwritten copy.
Q: Yes.
A: Because that was his method of operating, was making threats, as what Miss Bahrami had told me.
Q: So as it turned out how did it come about that Miss Bahrami revealed the name of this Mr. Ketabchi?
A: I honestly don't remember all of the details, but what I do remember is that I think Miss Bahrami, I think I had finally convinced Miss Bahrami to initiate a complaint to help her-- to get the help that she needed and to bring the defendant in.
Q: Now, as part of the normal procedure in your department is there any follow-up with the alleged perpetrator?
A: Well, this particular case was left up to our precinct detective

unit, and I honestly couldn't even tell you what detective was assigned to the case.
Q. But is it still open, to your knowledge?
A: To the best of my knowledge, as far as this date, I do not know.
Q: Now, turning to Exhibit B, do you recognize the handwriting that appears there?
A: Yes.
Q: Whose writing is it?
A: On all of the lines it's mine, except for where it says report number--
Q: Yes.
A: --at the top and in the space where it says complaint report number, that's not my handwriting, but the remainder of the sheet is my handwriting.
Q: So this is a report that was taken on April 12, 2005; is that correct?
A: That's correct.
Q: Is this an intake sheet that she completed or you completed?
A: It's a police department incident slip which acts as a receipt for the complainant and the--almost like an instructional sheet that we give the complainant and we'll tell them to allow approximately twenty-four hours from when they make the report to then call the precinct and request a complaint report number and keep it for their records.
Q: Now, if you look to the second page, do you recognize that handwriting?
A: Yes. That's my handwriting.
Q: And what information does this reflect?
A: What it reflects is, I referred Miss Bahrami to Manhattan Criminal Court at 100 Centre Street. The phone number is 212-374-5880, to inquire about obtaining an order of protection a against the wanted. And also, I had also told Miss Bahrami to speak with--they have representatives in Manhattan criminal court for domestic violence victims, the victim's assistance unit, and they'll provide assistance even for language barriers or

guide her through protection or any other help that she might need, like seeking shelter placement or you know, explaining to her how the process works.

Q: Now, I would just like to go back to one issue. You indicted that Miss Bahrami was reluctant to give you information about this. Did she come across as someone who seemed to want to publish the fact that she had been a victim?

A: No, she was--she seemed to be very embarrassed by it and a lot had to do with the cultural background.

Q: So in your estimation, did she come across as someone who easily publicized the fact that she was an alleged victim?

A: I don't recall. I know she said that she had the threats recorded, but she--I do remember one thing she stated to me was that if anything did happen to me you will know that--why it happened. I said, " But I won't be able to d anything, because you're not giving me the information of whom I should go after." And that's--that was the --for lack of a bad word, the basics going back and forth. The discussion was how can I help you if you're not providing me with the details of the name and the location of the person that has done this to you.

Q: That was the first time she came to see you?

A: Yeah. That I actually spoke with her, yes.

Q: Did she come across to you, as a matter of culture, she would not be willing to let other people know that she was threatened by this man?

A: I'm sorry, repeat that.

Q: As a matter of culture, did she come across to you she was unwilling to let other people know she was threatened by this man?

A: I had gotten that impression, yes. But she knew something bad had happened to her, she was afraid, very afraid of this person and--but was hesitating to make a complaint report against this person, because she was in such fear that--she was convinced that eventually he was going to get to her to kill her. I even think to this day she believed that.

Q: Based on your experience, did you believe that she was

authentically presenting her emotions before you?

A: Yeah. At first I was getting--I was a bit confused and unsure what she really wanted, because first you're telling me what is really-- what's really happened to you, but you're not giving me information. Now, I'm thinking, did it really happen to you because, she--we see thousands and thousand of people and take thousands of complaints and have to deal with people from all walks of life, all different emotional levels and some people--there are a lot people that do lie to the police, but I knew after trying to breakthrough the language barrier then, I knew there was something wrong and the more that we tried to calm her down and convince her we are trying to help her, I think she started to realize that that's exactly what we were trying to do is to help her. But I knew there was--I knew she had a --excuse me--a fear of this person, and then finally I was convinced this is why she doesn't want to make a report, because, you know, in different cultures the men will murder the woman and I 'm not used to that because, let's face it, for the obvious reason I'm blessed to be born here in America and it's very different, very different.

So, I was also learning the differences in the process of how different cultures deal with different things. **I mean, in some countries it's okay for the men to rape and beat the women, but here it's not.**

Now, I try to--I have to try to convince a victim who is not born here and is not used to our culture that it's okay to be treated like a lady and no one has a right to, especially a man, does not have right to beat you or rape you or abuse you. So that, you know, we were trying to break down those barriers and I think it eventually worked, because I was able to take a police report.

Plaintiff's lawyer: Excellent. All right. Well, I want to thank you very much for your time.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IRENDOKHT BAHRAMI,
Plaintiff,
V.

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

Defendant.

---x

1350 Broadway
New York, NY

March 22 2006
1:16 P.M

DEPOSITION OF ROBERT H. BERGER, an expert witness in the above-entitled action, held at the above time and place, taken before Barbara P. goldsmith, a shorthand Reporter and Notary Public of the State of New York, pursuant to the Federal Rules of Civil Procedure, and stipulations between counsel.

PLAINTIFF'S LAWYER:
DOCTOR ROBERT H. BERGER

Q: Could you tell the record where your office is at?
A: 77 Park Avenue, New York, New York 10016
Q: Also your home address?
A: Yes.
Q: Does anybody else besides you practice in that location?
A: No.
Q: Do you know Ms. Bahrami?
A: I met her on two occasions for the purpose of conducting examinations. I had not known her before that.
Q: Had you heard about her prior to the time you met her?
A: Yes. When Defendant's lawyer contacted me sometime in the fall of 2005, she had told me that it was possible that she'd be referring a case to me for evaluation, but she needed to make some arrangements with the court and get approvals for that. We did not discuss anything really except superficial issues at that time. Then there came a time, perhaps in November or December--
Q: what dates you interviewed the plaintiff, Ms. Bahrami?
A: The interview examinations were conducted on January 11 2006 continued the following day January 12 2006.
Q: Approximately for how long did you conduct the interview on January 11 2007?
A: On January 11, we were together for about four hours. That was in the presence of an interpreter, as was January 12 in the presence of an interpreter. I don't have the names of the interpreters though.
Q: How long was the January 12 interview?
A: It was about the same amount of time. Of which about an hour and half of that time was taken up with Ms. Bahrami doing a psycho diagnostic instrument or assessment.
Q: How you commence the interview.
A: I will introduce myself, explain the purpose of the

examination, who I am, how I came to be part of the evaluation process, and explain what we were going to be doing for the course of the examination which by I would explain would involve obtaining and reviewing the past personal history, childhood and family history, education and work history, personal history. Then I would proceed in Q&A manner to ask questions. I would say that, you know the answers should not be limited to the questions as much elaboration as possible to give me an understanding of the information that was necessary you know was encouraged.
Q: I understand you did not tape record the examinations
A: No, I took contemporaneous handwritten notes.
Q: Dr. Berger was there a time that--were you expected to prepare a report when you conducted the interview with the plaintiff?
A: I had not.
Q: When were you asked to produce a report?
A: I would say that the issue of report most likely came up sometime toward the end of the week of February 20th. When I was called to prepare a report was on February 28 2006 the date the report was delivered.
Q: Were you requested to submit to deposition on February 28?
A: I'm not sure.
Q: Were you served with a subpoena?
A: Yes.
Q: But there came a time that you learned you had to e deposed on February 18 is that correct?
A: There came a time when I had a discussion with you, plaintiff's counsel in February 25 and we discussed the possibility of deposition on February 28, yes.
Q: But it was not done on February 28 is that correct?
A: That's correct.
Q: Do you know why it was not done on February 28?
A: I don't know, but I know for myself I had contracted a bronchitis. In fact I was fairly shocked that I was being asked to prepare a document in the form of a report on that day.

Q: So you were ill not to attend the deposition, but not well or ill to prepare a--

A: Yes

A:I wasn't well enough to prepare a report or attend a deposition and it seemed to me that I was being given some leeway regarding the deposition, but no the report. And you know one does what one has to do. And it appeared to me from what me communication was with defense counsel--

Q: who gave you that leeway Dr. Berger not to attend the deposition?

A: I don't know who authorized it. I only know that all of my conversations during that period of time were with defendant's counsel. I don't know whether authorization was or was not given.

Q:I understand that. And so your understanding was that prior to February 28 you were retained?

A: Yes.

Q: On Friday, February 25 when we talked you informed me in a letter that you had not been retained.

Q: If Defendant's lawyer indicated to the court that you were retained to prepare the report on February 27 that would not be correct would it?

A: No.

Q: Was it one interpreter on each day or different ones?

A: There was a different interpreter on each day.

Q: Were there any papers, forms that you asked later on to be filled out by the plaintiff?

A: Yes. I asked her to complete the Milan Clinical Multiactional Inventory Third Revision.

Q: It was during the first day or the second day--

A: Second Day.

Q: and how many copies did you ask her to fill out?

A: I handed Ms. Bahrami one copy of the examination which has 175 Questions. And I gave a copy to the questions to the interpreter so she could be reading the questions along at the same time or respond to any questions Ms. Bahrami had by

using her own copy.

Q: Did you ask the interpreter to fill out the form too?

A: No

Q: Did the interpreter make any note or notes on the form?

A: Yes.

Q: Do you have that form?

A: I looked for that form in my files and I don't have that. I might have that in my office. If I do I will provide that to you. To me it was garbage.

Q: Why would you consider it garbage if you were using an interpreter to help examine a patient?

Q: Wasn't the interpreter helping the patient?

A: Yes. In interpreting.

Q: Do you have those forms, did you keep the forms on your desk?

A: I might have. I don't know. As I said what she handed me was a document like the one you have there, document like the one you have there, the questionnaire, with markings on it, x's and notations, whatever interpreters tend to do. It's their own personal notes. Many times interpreters--I've used interpreters and they jot down notes to themselves about whatever they're doing. That-- I had never considered that as part of my examination.

Q: If you use an interpreter to help a patient answer certain questions, how would you know if the answers provided on the forms are accurate as the patient desired them to be on the forms?

A: Because I used--the forms that I used for analysis and interpretation was the form that the patient completed, not the form that the interpreter was making her jots and dots and notations on.

Q: **If the patient does not read and write English or does not understand questions how would he or she indicate the response on the forms?**

A: That's what the interpreter was for.

Q: Who would mark the questions or the answers?

A: The patient would. The patient and the interpreter, if there is question about--if there is question and the patient does not understand a word in the question, the patient might ask the interpreter what that word is. And once, upon gaining some understanding with the assistance of the interpreter of what the question was asking then the patient would knowing and understanding the question decide whether or not that the answer to the question was true or false. The interpreter is not there to provide answer. The interpreter is there to provide help with understanding words or questions.

Q: The question number 14 is "sometimes I can be pretty *rough and mean in my relations with my family*"?
Q: do you want to look at it first?
A: I have it.
Q: Question number 14, I want you to look at the original if you may and look at the answer?
A: The marked answer is false.
Q: Is it by pen, pencil or --
A: Pencil.
Q: Next to it seems to be an erosion?
A: An erasure.
Q: Right and it was marked with a pencil, correct?
A: True and erased.
Q: After your examination was done, did you provide a copy of this form to the patient?
A: No
Q: Sir, the question is, how would you verify whether or not or how would one verify whether or not these grids have been filled by the patient in you office?
A: There would be no way but to take my word for that.
Q: Was there a time that you sent these forms to another center or another person?
A: Yes.
Q: Before sending those forms, did you make copies of them, Sir?
A: No

Q: how long have you been conducting this test Dr. Berger?
A: Fifteen years.
Q: Fifteen years and did there come a time in your mind, that these forms may get lost?
A: No
Q: Is it your practice never to keep copies of the forms that you sent out?
A: Yes
Q: Let's look at No. 4
A: Let's look at that." Sometimes I can be pretty rough and mean in my relations with my family." The initial response appears to have been true because that looks like it was erased. It was erased into false. So that it seems to me that saying that is something negative. So if one wanted to appear in a more favorable light, they would mark that as false. I'm not sure why I would have an interest in making the plaintiff appear either positively or negatively in any which light, but certainly why would I want to change an answer to make her appear in a more favorable light? The same with some of the other erasures. They're about five or six of them.
Q: Q: Whenever there's an erasure on the form, did the patient use an interpreter to erase them?
A: I'm not sure
Q: Were you present when the questions were being read to the patient?
A: Not for the most part. I mean, there was times when I was called in and then asked a question and then that's when I would come in. I left them on their own.
Q: How would you make sure that the patient understood the questions?
A: The test is not administered with the physician trying to describe or explain the answers. The individual fills it out as best they can. In the case when the person does not have all of the language skills necessary to understand every question, then one uses an interpreter.
My ability to provide interpretation in Ms. Bahrami's native

language does not exist. So, I relied on the interpreter assisting with the language.

Q: Is this your testimony that you did not have to be there when this form was being completed and filled out?

A: No. It's my testimony that I did not deem it necessary to be there when this form was filled out. I needed to be available.

Q: Could the patient have taken this form to her home and fill out and bring it back to you?

A: It's not recommended, although some people do it that way.

Q: Therefore, you have no supervision on doing this test or administering the test?

A: The supervision is for honesty. It's not for understanding. It's to see that the individual is responding and giving answers that they fell are the most accurate to the question, not as to whether or not they could or could not understand the question. The validity of the test is going to tell you the person understood the questions or not. **If they don't understand the questions because of education or language, the test will reveal that in its validity scores.**

Q: Is this your testimony when the patient fills out the form you were not there?

A: I was available and at times I was there when I was asked something **but I was not present during the entirety of the completing of the questionnaire.**

Q: How long did Ms. Bahrami spend on this test to fill out?

A: About an hour and a half.

Q: And where were you for one and half hours?

A: I was within the suite. I was either reviewing records or I was, you know, on the computer or maybe I might have gone and smoked a cigarette or I came in and was asked questions on occasion.

Q: During the time you were not there when the patient was filling out the questions, were you being paid for that time?

A: I had not been paid for any of my time, but it's likely that I will submit an invoice which will include that period of time, yes.

Q: You have not been paid and you had been retained?

Q: On the second day, when this test was given to your patient, did you also go to your kitchen?

A: To Ms. Bahrami

Q: Yes, to Ms. Barhami, did you also go to your kitchen? And How often did you go to your kitchen?

A: I do know that I asked Ms. Bahrami if she wanted coffee, and she said yes, and I mad coffee, I made coffee on one day for myself, Ms. Bahrami and the interpreter. On the second day, I believe it was just for myself and Ms. Bahrami

Q: Dr. Berger , other experts in your field do you know if they tape record these interviews or sessions?

A: I do know some who do on a regular basis.

Q: Is there a law requiring these sessions be taped?

A: Not to my knowledge.

Q: Did you spend time with Ms. Bahrami talking about politics?

A: We spent about eight hours together, and certainly politics might have come up.

Q: Did you tell Ms. Bahrami that you were being paid to prepare a report for this case?

A: No, what I did say was, during my introduction, that if in-- that in the event that I was asked to prepare a report, the report would include things that we talked about and my impressions about those, and also that I never know what will happen in the future, but sometimes I'm asked to come into court to testify. And if that does happen, I will also be talking about what we have discussed. It's part of you know a disclosure going to the limits of confidentiality of the examination. I don't think we discussed anything about politic.

Q: Did you tell Ms. Bahrami that you will write anything for anyone who paid you?

A: No, I did not.

Q: **--if anybody paid you lots of money, you would write anything they wanted you to?**

A: I might have said that some people might.

Q: Going back to an earlier statement you made concerning that

you might have stepped out to smoke, did Ms. Bahrami smoke?
A: I don't know, it's possible.
Q: Going back to February 28 when you prepared your report, do you know when you finished that report, sir?
A: I think it wasfabout 11:00 or 11:30 at night.
Q: And did you review that report before sending it out?
A: I may have. I likely did, perhaps quickly. I had an attorney calling me every 15 minutes asking me if I'm finished yet. It was kind of an awkward situation to be writing under.

Q: Was there a feed back from your attorney as to the contents of the report?
A: No. Well, I asked her if I included what she needed to be included and she said that was fine.
Q: So you had to include what she wanted you to include?

Q: How many times did you submit your report to your attorney?
Q: Once. Was it only once that you emailed the report to her?
A: Yes.
Q: Did you sign that report?
A: Not by hand.
Q: I am showing you report prepared by you, dated February 28 2006. Is an accurate statement of your understanding of the report; is that correct sir?
A: Yes.

Mark this as Plaintiff's Exhibit 1

Q: I'm also showing you the report dated February 28 2006 reported by you and ask that you take a look at this, please. Is it the report that you prepared and submitted in this action?
A: Yes.

Mark this as Plaintiff's Exhibit 2

Q: I'm showing you two exhibits marked plaintiff's **Exhibit 1 and 2 that you just identified as your report, and I want you to look at the last pages of these two reports. Could you**

describe to us why there are two different signatures on those last pages, sir?

A: Yes. The report document that you handed me second, that would be plaintiff's Exhibit No.2 has the signature font that I used on, I think it's free style something or other, and that's a more accurate printout of what the type, the true type font would be. However, some computers don't manage that font and that font is then changed automatically to the closest font that it resembles. And it is not uncommon when I submit my font signature like that, that it then comes out later on as a simple font or something close to it.

Q: which font did you submit your reports?

A: Exhibit 2.

Q: But these two exhibits reflect both fonts, correct?

A: Yes

Q: So how would it differ one to the other when you have both fonts in the same repot?

A: It' s a matter of who's print in it.

Q: It came out from the same printer, sir?

A: I don't know whether-- I man, I can't tell you what it was.

Q: Is it possible that the font may have been changed later?

A: you know, anything is possible. I was not around when the report got printed out. I only know that usually I would say 99 percent of the time when I email something I use this semi-script font.

Q: do you have the copy of this report for yourself, sir?

A: I actually--I do not have one that I printed out of my computer. What I have with me is--I have forgotten it. So I had asked Defendant's lawyer for a copy. So the only one that I have is the copy that she provided me, which is this one, and this has the more block font.

Q: So, **you** don't keep a hard copy of it?

A: **Usually I do. But I think probably either it's been misplaced and it's somewhere in here or it was the fact that by the time I finished this,** I could barely stand. So it was about 12, 11:30 twelve o'clock at night on the day I was sick. I

might not have done that figuring I would do that at a later time. But I don't see it in my file at a glance. That's why I asked if Defendant's lawyer had a copy for me.
Q: What documents were you provided, sir?
A: Those which are enumerated in the body of my correspondence, and that would be section 4 of what you are calling the report and it includes the complaint the plaintiff's Amended Verified complaint and it's response, plaintiff's response, and various medical records from--
Q: Did you also, in part four of your report, you are referring to documents in the file. One of them refers to defendant's responses to plaintiff's interrogatories. Did you read that response, too?
A: Yes.
Q: Do you know the defendant in this case?
A: No, I've never met him.
Q: What relevance would the defendant's response have in this case that you started preparation of this report?
A: Well, when I state these are the documents that I reviewed and received, if I left that out, then I'd be lying. So I have included all of the documents that I received and that I read, whether they had maximum relevance, a little bit of relevance, or no relevance at all.
Q: What relevance did this particular document have?
A: It allows me to --it allowed me an understanding of what the defendant's allegations were regarding behaviors and regarding symptoms and complaints so that I can more accurately direct aspects of the examination to issues that I understood.
Q: How would the defendant's denials of the allegations help you come to the conclusion in your report?
Q: Did Ms. Bahrami ever tell you that she was raped?
A: Yes.
Q: Did she tell you who she was raped by?
A: Yes
Q: Did you indicate it in your report?
A: I did not

Q: Did you make the report of rape by Ms. Bahrami in your report that you submitted on February 28?
A: No
Q: Is there any reason why you left it out?
A: Because the report only provided the data that I relied on, the concrete data and my diagnosis and my opinion. And if that was the case, because I had about two hours to complete the report.
Q: Are you saying that this is not the comprehensive report that you should have prepared?
A: No
Q: Is it your testimony that you did not rely on Ms. Bahrami's recollection of the rape?
A: No that's not my testimony.
Q: Was the credibility of your patient an issue for you when you were examining her, sir?
A: Yes
Q: Does the your report indicate whether or not her credibility may or may not be an issue?
A: Yes.
Q: Whether or not the person is raped, that bears no credibility from your point of view?
Q: Your report obviously lacks the issue of the reports– the rape that Mrs. Bahrami reported to you?
A: Yes
Q: And the credibility of the patient was an issue for you?
A: Yes
Q: Is it true that you left out the issue of rape because you did not find Mrs. Bahrami credible in your evaluation?
A: that's a two part question. I left it out because I did not include the details of the interview, the details of her personal history, the details of her complaint, but only my opinion in regard to those. It is not for me to decide whether or not those accusations are--happened or did not happen. That's for a whole other party. That's for a trier of fact and not me. It's not within my expertise t know whether or not an event occurred or did not occur.

Q. Was the credibility of the defendant an issue for you in preparing this February 28 2006 report?

A: The way you're phrasing the question is making it difficult for me to answer that. The issue of credibility was of relevance in the formulation of my opinion. It had nothing to do with my preparation of the report. I prepared this report because I was ordered to. Otherwise, I wouldn't have, certainly not on--

Q: But you indicated you prepared this report based on the data you had?

A: Yes

Q: And one of the data you had was the claim of rape in this case?

A: Yes

Q: Obviously, you excluded that data because you did not indicate in your report?

A: No. I did not include any data in the report.

Q: What data did you rely upon?

A: I already explained the data I relied upon is in section 4 plus section 3. The examination, the psycho diagnostic testing, and the documents that I reviewed.

Q: Sir, what was your purpose of examining Mrs. Bahrami?

A: to determine whether or not to make an attempt to render a psychiatric diagnosis to make a determination of whether or not I could determine that Ms. Bahrami was suffering from some psychological disturbance, psychological pain or suffering and whether or not if I could whether or not that pain and suffering or that psychiatric diagnosis was in any way casually related to allegations that the plaintiff has made against the defendant. If it was causally related to any of the defendant's behavior.

Q: Sir, earlier you testified that you one of the documents you relied upon was the defendant's responses to the interrogatories, is that correct?

A: Yes

Q: Do you have a copy of that report or a copy of that response?

A: I'm sure that I do.

Q: Sir, when did you get this document?

A: Probably sometime in Dec of 05, maybe Jan 06 but prior to the examinations.
Q. Did you read the questions and answers in this interrogatory, sir?
A: Yes.
Q: Did you pay attention whether or not it had been verified by the defendant?
Q: Do you know if the defendant answered to the questions raised in this interrogatory?
A: No, I do not know.
Q: You just testified that you read the questions and answers in this interrogatory, is that correct, sir?
A: yes, it is.
Q: There were some questions put by the plaintiff and some answers put by the defendant is that correct?
A: Yes.
Q: were the answers or did the answers come from the defendant in this interrogatory, sir?
A: I do not know. It only states that they were.
Q: So you did not bother to find out whether those answers were correct?
A: That's right
Q: Was the response to the plaintiff's interrogatories signed?
A: by counsel.
Q: When there is a question and an answer and somebody signs it, what does that mean to you, that segment on the document?
Q: Would it indicate that maybe the answers are not accurate?
A: I do not understand. Perhaps it's because I'm not an attorney, I don't understand what the connection is, I do not know that the causal relationship to it. It did not come to my mind that was the case. I did not think that. And whether it is or not, I don't know.
Q: Did you ever ask the question whether or not this was a document signed by the defendant in terms of the answers to the interrogatories?
A: No, I had not

Q: Did you have any basis for concluding that defendant Ketabchi had prepared the answers or responses?
A: No
Q: Is it possible that somebody else prepared the report and submitted it to you?
A: Anything is possible and certainly that.
Q: What other documents did you rely upon when you were not sure whether or not they were prepared by the defendant or verified by the defendant?
A: Every document that I have I never spoke to the defendant nor verified anything about the defendant in relation to them. So I do not think that the defendant verified that he had prepared any of the medical records which he had, nor any of the responses not the complaint in the matter, nor the --anything else.
Q: But you relied on the documents submitted by the defendant?
A: I reviewed the documents and if there's material there that's relevant to my assessment then I rely on it and if there isn't then I don't. I guess for everything that exists.
Q: Was there any specific document material to your assessment?
A: They were all material, the documents that we just described and even the plaintiff's complaint and the verified complaint gave me an understanding of you know before I went into the matter, before I went into the examination what the essence of the accusations were. The responses gave me a sense of what, you know the--what the defendant's, you know possible response to them were. I took none of it as fact. I took all of it as you know what those individuals were alleging one way or the other.
Q: So how would you review a legal document and formulate and opinion as to whether or not an issue occurred in this case?
A: I never stated nor would I ever state that I would make and issue or make a statement about what had occurred in this case. I don't know what had occurred in this case. I know what's alleged to have occurred, but I do not know what occurred.

Q: From your examination do you think what has been alleged to have occurred has occurred?

A: I don't know, I have seen lots of things happen much more extreme than what's been alleged here. So that it's possible to have happened is certainly the case. **I can not say that it did not happen and I do not say that it did not happen.** It's not for me. I have no expertise or no crystal ball to figure out whether Ms. Bahrami you know had those experiences or did not. I was not there and I have no information to support or refute those allegations.

Q: Sir, did you ever tell Ms. Bahrami that she was abused in her relationship with defendant Ketabchi?

A: Did I tell her that? How would I have been in a position to do that?

Q: Did you come to the conclusion that Ms. Bahrami was abused in her relationship with defendant Ketabchi?

A: That she was physically abused.

Q: Physically, mentally, emotionally, psychologically,.

A: I came to the opinion that Ms. Bahrami subjectively experienced the relationship as at the minimum and emotional abusive one and at this point in time perceives her experience subjectively to have been one that was abusive.

Q: Did Ms. Bahrami ever tell you that she was burned by the defendant?

A: yes, many times.

Q: Would you consider it as an abusive behavior by someone to burn somebody else?

A: Yes. Highly abusive

Q: So from your point of view was Ms. Bahrami emotionally abused?

A: As I said, I believe that Ms. Bahrami subjectively experienced a relationship as an abusive one, emotionally that she continues to experience and recollect her relationship as an emotionally abusive one, and she describes long standing episodes of abuse which I do not have an opinion on entirely. she was physically abused in the way that she described. I could

not rule that out.
Q: When she told you that she was burned , did you believe her?
A: When she told me that she was burned, I did not make a value judgment as to whether I believed her or not. What I tried to get an understanding of was what her emotional experience form that and what would lead to that kind of experience.
Q: If an evidence is produced to support the claim of burn, would that effect your credibility of the patient?
A: Yes, depending on the level of evidence, it would support the claim to whatever varying degree. At the same time, I'm not a fact finder and I'm no the one to decide whether or not the evidence submitted to me proves anything.
Q: Sir, I'm going to show you two photographs which have already been marked as Exhibit A on November 4, 2005 which shows take a look at them first, please. These are the photos produced by plaintiff Bahrami indicting the burn marks on her right breast. Is this the complaint that she made to you that she was burned?
A: She complained to me that she had been burned on her breast by the defendant.
Q: having seen these pictures today, would you describe defendant's behavior toward the plaintiff as abusive?
A: Based on the photograph.
Q: I'm asking your opinion, sir.
A: But in this particular case, because the behavior that Ms. Bahrami accusing the defendant of having committed is so egregious, that type of behavior, in my experience as psychiatrist, often would create in an individual or cause in an individual to suffer from severe or at least moderate to severe emotional consequences and disturbances form that kind of behavior. So that if someone were to tell me consider that this happened , I would have to consider that the individual who suffered such abuses suffered emotional consequences of a moderate to a severe degree, without --you know, merely based on scientific research and knowledge and understanding of human nature and behavior. But you know, I --so that, you

know, in this particular situation as opposed to many others that I'm that I investigate or I evaluate, the relationship between the degree of psychopathology or the relationship between the --Ms. Bahrami's emotional makeup and things that Mr.– that the defendant has done .

Q: What is the behavior described in the complaint, sir?
A: Multiple rapes over 15 years, physical abuse, burnings, punching, sadistic control, that's egregious behavior.
Q: So if someone has been severely punished, severely abused, raped, mistreated, you do not consider it as a viable act of abuse or you consider it as an egregious act?
A: I do not understand the deference.
Q: Is it possible that Mrs. Bahrami's psychiatric diagnosis resulted from physical abuse by somebody?
A: That's what I was just saying. Yes that is within the realm of possibility.
Q: Did Ms. Bahrami ever tell you that she was threatened?
A: Yes
Q: Did she tell you who she was threatened by?
A: By the defendant. Mr. Ketabchi
Q: Do you recall Mrs. Bahrami , how often she was threatened?
A: She said that she was threatened on a regular basis with physical harm to herself and her family.
Q: Was she fearful of the defendant when you examined her?
A: She described herself as being both very fearful of the defendant, but at the same time she felt strong enough to stand up to him now.
Q: Could someone abused continue staying in and abusive relationship?
A: Yes.
Q: What fact of factors would contribute to his or her continued relationship with that person?
A: One factor could be fear in response to actual threats. One factor can be fear in response to actual physical abuse.

One factor could be what's described as the cycle of abuse, which cycles from the physical abuse followed by periods of extremely contrite behavior by the abuser, almost seductively contrite behavior in which the individual begins to think in their mind that the abuse won't happen again. It could be that the individual become so numbed to the situation that they feel--they have no feelings about it. Other reasons described often are economic factors. A person fears being suddenly put on their--if we're talking about a woman--her own, without any support. Fear of being humiliated, fear of reprisals, fears of her--for the individual's family if that family has been threatened. Feelings of love toward the individual. Dependency needs, both emotional and practical. These are factors a person within the context of a known abusive relationship.

Q: Did Mrs. Bahrami ever tell you that she felt she was in prison?

A: Yes. She described at one point feeling as though she were in cage.

Q: Did she inform you that she felt that she was being treated like a sex slave?

A: Yes. At one point she said a sex slave. I think she said like a dog or some animal.

Q: Sir, didn't you just testify that someone could be in a continued abusive behavior for several reasons?

A: Yes

Q: You indicated that Ms. Bahrami mentioned the word, husband to you. Did you ever--

A: No, she never mentioned the word, husband to me. That was in the medical records.

Q: In the medical records. Did you ever question her as to whether or not she was married?

A: She told me that she had been married in her own country. That was a whole area, other area of complete confusion for me because she would not describe or explain to me so I can in any way understand what type of relationship she had with her

husband. She said that she was married when she was 11. She refused to answer questions to help me to understand what that meant even within the context of her culture of how that happened to have come about what her feelings were in that regard.

Q: Sir, did you ask her to find out about the religion of the defendant?

A: I am not that well versed on the specific religions but whatever it is I am not sure. It is neither of those. And I am not sure the nature of his cultural background. But I know that it's I guess consistent with some individuals from a background. Muslim, I am not sure.

Q: Sir, did you know that a Muslim could have a temporary marriage with someone and --yes or no.

A: I had not known that, but I have learned that.

Q: in that temporary marriage situation, the parties are husband and wife. Is that true?

A: I do not know but I will take your word for that because I do not know that much about it. I only understand that certain men will enter into a temporary marriage with a woman who is not their--with whom they--even though they were already married to someone legally and within their religion will take on perhaps a formal mistress as a temporary marriage.

Q: But religiously that will be permissible?

A: culturally it's permissible

Q: Did it ever cross your mind that when Mrs. Bahrami reported to her doctors about husband, she was referring to the defendant?

A: Not at the time when I reviewed those records.

Q: Now that you know about this fact, is it possible that she may have referred to the defendant in those complaints-- in those reports to the doctors?

A: Yes. I and assuming that she was referring to the defendant in those reports.

Q: But you did not ask her whether or not she was married to the defendant?

A: What I am saying is that whether she was formally married to the defendant or considered him her husband, she denied both of those to me. She says she had no relationship with this man except one in which she was used for sex whenever he wanted it, that she had no feelings for him, whether as a husband or any other person, that she despised him. She despised him from day one. She despised him consistently.

Q: Sir, have you ever had a patient with an Iranian background in which abuse and spousal abuse could be part of their norm?

A: it--I am aware and I've had individuals who did not have those particular experiences but who described them to me during the course of treatment and also evaluation. That it is not necessarily unusual. I was never led to believe that it was necessarily common, but I was led to believe that it was not unusual for a relationship between a man and a woman in the Iranian culture for a man to be abusive and for a man to have extramarital relationships and that it was somewhat accepted by his peers

Q: Having discussed this issue, would you still believe that Ms. Bahrami lied about the rape--

A: Oh, I don't

Q: --In this relationship?

A: I don't want to be like my statements at all to be characterized as saying that I believe Mrs. Bahrami lied about the rape. I really have to tell you that I honestly do not know. **I will never say that I do not believe that in any absolute way that it did not happen.** Nor will I tell you that I absolutely believe it did not happen. I only --you'll have certain questions about the credibility of whether it happened. And in that regard, not accept--you see, if I were to--what I was trying to explain before if I were to accept the types of abuse that Ms. Bahrami describes of Mr. Ketabchi and over the period of time she describes, then I would have to conclude that as a consequence of that she more than likely had suffered some psychological damage from that. So you know if I were to accept that would be a one to one relationship. But I do not merely accept it and I

did not find enough in my evaluation from any source that supported it enough for me to make that conclusion.

Q: **Was Mrs. Bahrami's Iranian background a factor that you considered in your medical evaluation–**

A: Yes , I did

Q: --medical evaluations?

A: Yes, I did, I am not an expert in the culture, I am also not a mental health professional who specializes in individuals from the culture. So, I am sure that whatever considerations I gave it, were not a full considerations. I'm sure there's a depth of the culture that I do not know or understand about that probably has implications.

Q: What cultural backgrounds or what cultural considerations did you consider in this case concerning her cultural background?

A: Within the culture and within a marriage the woman would be more submissive to the man. The man would be in a more controlling and more dominant role, that the woman would not question or defy the husband, that people--that family and friends would consider the male's statement and position and authority over the female's those types of factors.

Q: Just a few more questions if I may. And that is you have read many documents in this case. You have examined the plaintiff in this case and based on your knowledge of this case and the abusive behavior toward the plaintiff the allegation of rape from your point of view from your opinion based on your expertise based on your evaluation of the documents and the plaintiff could it have happened?

A: Yes, it is possible.

Q: Can a woman who dresses in a provocative manner be a victim of rape?

A: Absolutely.

Q: Could a woman who tends to be assertive and aggressive be a victim or rape?

A: Yes

Q: could a woman who is submissive, fearful, terrorized be victim of rape?

A: Yes

Q: Could a woman who is force to stay in a forced relationship be a victim of rape?

A: Yes

Q: Could a woman who exaggerates be a victim of rape?

A: Yes

Q: could a woman who tries to hide behind an artificial identity be a victim of rape?

A: yes

Q: Could a woman who finds herself hopeless, unless be a victim of rape?

A: Yes, there would even be a relationship between those things.

Q: Could a woman or a victim who mischaracterizes her long-term relationship with a man be a victim of rape?

A: Yes

Q: Could she be a victim of a rape by the same man?

A: yes

Q: Could a person of a borderline personality disorder be a victim of rape? A: Yes

Q: Could a woman who has difficulty tolerating being alone be a victim of rape?

A: Yes

Q: Could a woman who constantly stays angry be a victim of rape?

A: Yes

Q: Could a woman who suffers from low self esteem be a victim rape? A: Yes

Q: Could a woman who suffers from depression be a victim of rape?

A: Yes

Q: Could a woman who suffers from anxiety and anger be a victim of rape?
A: Yes
Q: Could a woman whose behavior may negatively impact her and others be a victim of rape?
A: Yes
Q: Could a woman who thinks of herself as flawless be a victim of rape?
A: It's possible
Q: Could a woman who considers herself as superior to others be a victim of rape?
A: Yes
Q: Could a woman who may manipulate others be a victim of rape?
A: Yes
Q: Could a woman who may lie to her doctor be a victim of rape?
A: Yes

ROBERT H. BERGER DEPOSITION

(Dr. Berger earned his medical degree from the Universidad Autonoma De Guadalajara in Mexico. Dr. Berger was never able to land any jobs in any hospitals, doctors with low academic performance can not land a job in hospitals, as Physician Profiling Department said. Dr. Berger lied under the oath, at the Trail ," there were also indication in the medical record that at least since 1995, she had reported depression and was referred to counseling". I did not have a health insurance in 1995, the first time I went to the doctor was a primary doctor, when I purchased Oxford Freedom in 1998. I went for counseling in 2005 for the first time. Dr. Berger said a completely different things about me in his deposition, more of a honest way, than Trail, which was pure lies. Dr. Berger said in his deposition, "I asked Defendant lawyer, if what I put in my report is good, or if

Defendant lawyer wants me to add some more" for psychiatrist this counts as malpractice, and shows that he is not a credible doctor, and violates the medical law for money, which is against the medical law, this shows that Dr. Berger did not give his honest opinion on my case, but the reflection and what the Defendant's lawyer asked him to put in his report. **I asked Dr. Berger after testing for copy of my questioner, he ignored me, when my translator and I reviewed the questions, 15 questions were changed, 3 or 4 questions were answered by Dr. Berger himself, and when my lawyers asked him for the copy of the translator *questioner, Dr. Berger said that he lost it, because it was* nothing but garbage, all that because me and my translator copy cat each other in the questioner. When I went for testing, Dr. Berger said sorry you were raped and abused in front of the Translator(Gohar Zahregian) but they pay me and I have to write any thing that Defendants lawyers asked me to write because they are paying me. During 8 hours of me seeing Dr. Berger, 4 hours was spent on testing, the other 4 hours, two hours me and my translator sat down and waiting for Dr. Berger since he was cooking, it was Dr. Berger's turn of taking care of his son and talking on the phone with Defendant's lawyer, I really don't know, how could he say so much when I had not more than 15 minutes *of conversation with him, only he listened to my rape tape,* and said sorry, you were raped, abused, harassed and isolated, but I have to write whatever the Defendant lawyer ask me to write.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IRENDOKHT BAHRAMI,

Plaintiff,

V.

Direct Testimony Of
Craig L. Katz, M.D

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

Defendant.

CRAIG L. KATZ, M.D., being duly sworn, deposes and says under penalties of perjury:

1. I am physician duly licensed to practice medicine within the State of New York. I am Diplomat in Adult Psychiatry, American Board of Psychiatry and Neurology Diplomat in Forensic Psychiatry, American Board of Psychiatry and Neurology. My educational and professional histories and contained within my curriculum , which is annexed hereto and is hereby incorporated herein.

2. At the request of Mr. Michael Zilberg of Certain & Zilberg, PLLC I performed an evaluation of Ms. Irandokht Bahrami(Irene) regarding her complaint against Mohammad Ali Saadat Ketabchi. Mr. Zilberg asked(1) whether Ms. Bahrami suffers from psychiatric disorder(s); and (2) if so, whether this disorder(s)could have resulted from the actions she attributes to Mr. Ketabchi.

3. I reviewed the following materials: Amended Complaint for sexual Assault and Rape(dated 7/19/05); Deposition of Mr.

Ketabchi, via Farsi interpreter(10/21/05); Deposition of Ms. Bahrami, via Farsi interpreter(11/4/050; Written notes of Dr. Robert Berger's evaluation of Ms. Bahrami on behalf of the defendant (1/11/06); Report of the Millon clinical Multiaxial Inventory conducted by Dr. Robert Berger91/12/06); Forensic psychiatric report of Dr. Robert Berger (2/28/06); Ms. Bahrami's typed statement regarding Dr. Berger(date uncertain); Deposition of Dr. Robert Berger(3/22/06); Letter from Patricia Murphy, CSW, Ms. Bahrami's psychotherapist (2/14/06); Interview of Ms. Bahrami on 12/17/07(1.5 hours), 12/18/07(1.5 hours), 12/20/07(1 hour), and 12/27/07(1 hour); Interview of Atosa Shoughi, patient's daughter, on 9/18/08(50 minutes); and Forensic psychological report of Dr. Barry Rosenfeld(9/26/08)

4. At my request, Ms. Bahrami underwent psychological testing by Dr. Barry Rosenfeld. Dr. Rosenfeld administered three separate tests to assess for the possibility that Ms. Bahrami could be exaggerating her symptom report. Across all three tests it is noted that Ms. Bahrami appeared to make a full effort on all of these tests and showed no evidence of symptom exaggeration.

5. Ms. Bahrami provided a history of along-term abusive relationship with Mr. Ketabchi that culminated in a violent rape in January of 2005.

6. Ms. Bahrami complained of a number of psychiatric symptoms that arose in the 18 years of her problems with Mr. Ketabchi. She reported experiencing symptoms, including nightmares on a nearly daily basis that include scenes of seeing herself dead or of Mr. Ketabchi running over her with a car. These have lead her to cry in her sleep and need reassurance from her daughters. These nightmares are noted to have begun after the fist rape of 1989 and to have worsened in 2005. She also describes flashbacks of feeling the weight of his body against her and pains in her pelvis and arms as though he were raping her once more. She said she sometimes still hears his saying," I am going to kill you." Ms. Bahrami also described how she can feel panicky with palpitations and shortness of breath when she talks too much about the rapes. Sometimes she

said she develops diarrhea or vomiting when very upset.
7. Ms. Bahrami also described avoidance symptoms. She said she avoids going out at night out of fear and once having fearfully left a midnight mass. Her sense of optimism about her future has become clouded, as reflected in her saying " what kind of life is this to live, even if he doesn't kill me?" She also said she felt cut off from people, feeling instead caught up in her problems. Ms. Bahrami also complained of being less able to enjoy things she once did, such as exercise, relationships, or cooking. However, she did note that her amount of exercise has recently improved somewhat. She said she has lost her interest in sex. Ms. Bahrami said she used to be a " happy person."
8. Ms. Bahrami also endorsed a number of hyer-arousal symptoms, including problems falling and staying asleep nine out of ten days. She said she has lost her trust in people, especially men. She described that "I walk like this" down the street and showed herself cowering. She said she feels "extreme" anger and irritability but manages to keep these to herself. Ms. Bahrami also described feeling like she" jumps" all over and is on guard and restless. Ms. Bahrami added that her ability to concentrate has been "lost."
9. Ms. Bahrami also reported other depressive symptoms She said she cries often and feels so much mental "pain." She added that he "stole my happiness." She also reported being low in physical energy as well as mental energy or motivation. She said there were times when she would not shower or comb her hair for an extended period. Ms. Bahrami said that her appetite can be very low for a week at a time and then very high. She can awaken from sleep with nausea. She said she was suicidal at one point but no longer.
10. Ms. Bahrami said that a typical day for her involved staying in and rending to her home as much as she can, doing some cooking or cleaning. She said she did not go out due to lack of motivation, feeling tired and crying too much. She said her daughters helped with shopping and their real estate business.
11. She denied other anxiety symptoms, psychotic symptoms, or

eating disorder symptoms.

12. The following testing was conducted: On 12/27/07, Ms. Ketabchi was asked to complete a survey known as the PTSD Symptom Checklist. She required much explanation about how to complete it and much assistance from the M.D. Based on the sum of her answers to the initial 17 questions on this survey about various symptoms of PTSD, she scored a 68. A commonly used standard dictates that a score of 44 a more is consistent with having PTSD.

13. On 12/27/07 Ms. Bahrami was also asked to complete the Beck Depression Inventory, a survey that asks 21 questions about various symptoms of depression. when a Respondent's answers to these questions are summed up according to an established scored method, a score of 10 or more is considered consistent with at least mild depression. A score of 30 or more is deemed severe. Ms. Barhmi's score was 42.

14. My diagnosis was as follows: Posttraumatic Stress Disorder, Chronic(DSM-IV Code 309.81) and Major Depression, single episode, chronic, in partial remission(DSM-IV Code 296.25)

15. I reached the following conclusions: Mr. Bahrami's description of her experiences and her appearance are consistent with having developed symptoms of Posttraumatic Stress Disorder(PTSD). According to the standard American manual for psychiatric diagnosis, the fourth edition of the Diagnostic and Statistical Manual of the American Psychiatric Association(DSM-IV), PTSD is a type of anxiety disorder that can occur after a person experience a traumatic event that consists of their experiencing or witnessing an event that involves actual or threatened death or serious injury and to which they respond with intense fear, helplessness or horror.

16. The DSM-IV definition of PTSD requires the sufferer to have symptoms within three broad clusters of symptoms in the wake of the traumatic event. The first is that the individual must re-experience the event in at least one of several ways. Ms. Bahrami described or demonstrated re-experiencing Mr. Ketabchi's abuse and threats in all five possible ways listed in

the DSM-IV, specifically nightmares, flashbacks, intense psychological distress when reminded of the event(e.g., feeling panic or breaking into tears when discusses details of the rapes) and intense physiological distress when reminded of the event(e.g. shortness of breath, diarrhea or emesis when talking about how Mr. Ketabchi hurt and threatened her). Lastly, Ms. Bahrami experienced recurrent and distressing recollections of her perpetrator, as she appeared to think about Mr. Ketabchi and what he had done to her constantly.

17. The second cluster consists of persists of persistent attempts to avoid reminders of the event as well as sense of numbness and the PTSD sufferer must have three of the seven potential avoidant numbing symptoms. Ms. Bahrami had five of these symptoms, as follows: desperately wishing to avoid thinking or talking about his abuse and threats(e.g., her lack of cooperation during her deposition or opening one of her interviews with the declaration that she did not want to talk about it anymore); avoidance of activities that remind her of him9e.g. going out, especially at night); markedly diminished interest in usual activities(e.g. exercise, cooking); feeling detached or estranged from her friends; and a strikingly foreshortened sense of her future. The latter id exemplified by her repeatedly asking about the quality and meaning of her life since meeting Mr. Ketabchi as succinctly reflected in her asking, " What kind of life is this to live..?"

18. The third cluster contains symptoms of arousal in which the PTSD sufferer behaves as though the original threat still exists and requires being alert and on the defensive. In order to have PTSD, the DSM-IV requires that someone have at least two of five possible symptoms of increased arousal. Ms. Bahrami had all of five of these symptoms, namely insomnia, irritability, problems with concentration, being hyper vigilant, and an exaggerated startle response. The latter was demonstrated by her bursting into tears when the door buzzer rang during her evaluation on 12/21/07.

19. Ms. Bahrami's account and appearance are therefore quite

consistent with her having PTSD. Her responses on the PTSD Symptom Checklist (PCL) further confirm this finding. Both on interview and on the PCL, she reported and demonstrated far more than the minimum number of symptoms required for this diagnosis, nearly meeting all of symptoms. Despite the recent improvement noted by Dr. Rosenfeld, Ms. Bahrami's PTSD was by definition chronic because it lasted more than 3 months and, in fact for years. It is also typical of a chronic course of PTSD that Dr. Rosenfeld found that Ms. Bahrami primarily only described avoidant symptoms, as these are known to be the most enduring of PTSD's symptom clusters.

20. Just as importantly, Ms. Bahrami did not just have these symptoms but experienced problems due to them in two ways: (1) significant distress; and (2) severe and pervasive impairment in her ability to function across multiple domains, including in her personal and occupational lives. She described that as a result of the burden of her post-traumatic distress, Ms. Bahrami was not tending to herself, her home, her social life, and her career in the ways she once did. There is some indication, notably from her daughter, that this pervasive deterioration in her daily functioning has recently begun to reverse.

21. Ms. Bahrami also described symptoms consistent with Major Depression. These included sadness, loss of interest in previously pleasurable things, loss of appetite (including her nausea), insomnia, problems with concentration, loss of her energy, diminished self-worth (e.g; when she commented during her deposition, "I feel like nothing anymore") and suicidality. An individual needs to have five of the nine potential symptoms of major depression in order to meet criteria for this condition , and Ms. Bahrami's history and appearance appeared to be consistent with having seven of these. That she exceeded the threshold by this degree reflect a severe condition. Her endorsement of the questions on the Beck Depression Inventory was also consistent with this level of severity. By definition, her depressive condition was chronic, as it lasted more than two years. Most recently, Dr. Rosenfeld's observations suggest that

Ms. Bahrami's Major Depression has improved since her evaluation in December 2007. This improvement was also noted in the recent account of her daughter.

22. It should be noted that the criteria sets for PTSD and Major Depression have a number of symptoms in common. This can sometimes make it difficult to distinguish these disorder. On the other hand, these disorders frequently occur together in people who have experienced trauma such as what Ms. Bahrami described. This co-occurrence may arise out of the predisposition of the trauma victim or the severity of the trauma. In Ms. Bahrami's case, it appears accurate to assign not only PTSD but also Major Depression to her because she had several symptoms unique to Major Depression. These include her sadness and depression, her disturbances in appetite and energy, her loss of self-worth, and her suicidality.

23. Dr. Berger's diagnosis of Borderline Personality Disorder with narcissistic and histrionic traits in Ms. Bahrami is hard to substantiate for some very basic reasons. Borderline Personality Disorder(BPD) consists of a pattern of instability of interpersonal relationships, self-image and emotions. It is this diagnosis which apparently leads Dr. Bergers to conclude that Ms. Bahrami's complaints against Mr. Karachi's " drive from longstanding personality defects." BPD certainly can by its very nature render someone prone to paranoia, problems with anger, and unstable and intense relationships. It may therefore be tempting to look to these problems for explanations as to why Ms. Bahrami has made the allegations against Mr. Ketabchi and portrayed an admittedly extreme and hard to fathom situation of 16 years of abuse and threats. However, again, there is no available evidence that Ms. Bahrami meets criteria for BPD, including having problems with paranoia, anger, or relationship. These issues would need to be present from her early adulthood, to be apparent with people other than Mr. Ketabchi and even if they were present to be clearly problematic even when she was not laboring under significant symptoms of anxiety and depression. For example, Dr. Berger also concluded that Ms.

Bahrami has a number of other diagnoses, namely Generalized Anxiety Disorder, Dysthymic Disorder, and Somatization Disorder. It would be especially difficult to maintain that someone has three such acute diagnoses and yet somehow be able to look beyond them and identify a more longstanding personality problem.

24. Dr. Berger's report indicates that he relied, in part on her deposition and medical records to arrive at the diagnosis of BPD, but it dies not explain what specific information therein supports this diagnosis. And, Dr. Berger's notes and report suggests that his diagnostic conclusions also derive from the difficulty he had interacting with and interviewing Ms. Bahrami. This difficulty including her reported vagueness, argumentativeness and refusal to answer questions(issues which appeared to plague her deposition) could be consistent with BPD or another personality disorder. But they are not definitive of such a problem. Indeed the problems with interviewing her could also stem from PTSD, leading Ms. Bahrami to become easily over-stimulated, agitated, emotional, avoidant, or even confused. Cultural and language issues may also explain some of this.

25. The Millon Clinical Multiaxial Inventory performed by Dr. Berger concluded that Ms. Bahrami had a personality disorder related to BPD, Narcissistic Personality Disorder.

26. His report indicates that this testing also constituted a basis for Dr. Berger's concluding that she had longstanding personality defects, even if he diagnosed her with a different but related personality disorder. However, in psychiatry a questionnaire does not verify a diagnosis but rather provides some data to inform the rendering of a diagnosis. And, the accuracy of the Millon in this case can also be questioned since that assessment's characterization of Ms. Bahrami(e.g. as having a " cool and seemingly indifferent manner" and maintaining a "veneer of sociability, charm, and self-assurance") seems so at odds with her recent history and her appearance wherein she appeared distraught, de-moralized, and fearful. This disparity

may have derived from the concerns that Dr. Rosenfeld had expressed about the questionable cultural or linguistic relevance of the Millon to Ms. Bahrami. Additionally, even if the Millon and Dr. Berger are correct about Ms. Bahrami's personality disorder, having a personality disorder such as BPD or Narcissistic PD does not preclude the possibility of being subject to severe trauma and developing post-traumatic reactions such as PTSD or clinical depression. Indeed personality disorders can predispose people to situations in which they are mote likely to experience trauma and its consequences.

27. As Dr. Berger noted in his deposition, a psychiatric evaluation can not definitively say whether the events in question occurred or not. However it is possible to conclude that the evidence is highly consistent with Ms. Bahrami's having undergone severe trauma. The story she has told, including many details has been largely consistent across her deposition her evaluation by Dr. Berger, her evaluation by Dr. Rosenfeld and the current evaluation. It is also consistent with the account provided by her daughter. The distress she describes also accords with ms. Bahrami's having undergone trauma of the kind she has described. And her tearful and frightened mental status is likewise consonant with a picture of trauma. Finally, Dr. Rosenfeld's testing revealed no evidence of exaggeration or fabrication on Ms. Bahrami's part

28. Altogether, the various sources of information about Ms. Bahrmai and her complaint against Mr. Ketabchi present a coherent picture of trauma and its expected consequences. Trauma victims can and do become so fearful as to fail to seek and exit from traumatic relationships. In this case, in the context of Ms. Bahrami's Iranian background, potential cultural influences may provide even more credible and understandable reasons for her delay. And her decision to finally report him after 16 years can be understood in the very terms in which she has described it. Spurred on by an especially brutal rape in January 2005, Ms. Bahrami appears to have decided that she had lost so much in 16 years of dealing with Mr. Ketabchi that she

had little to lose and much to gain in finally coming forward.

29. My opinion and prognosis are as follows: Ms. Bahrami's description of her experiences and her appearance are consistent with having developed symptoms of chronic Posttraumatic Stress disorder and Major Depression in response to longstanding emotional, physical, and sexual abuse by Mr. Ketabchi.

30. Ms Bahrami appears to be doing better at the time of this report. However, the chronic nature of Ms. Bahrami's symptoms suggests that her recovery, although underway, will require more time and treatment. The long and intense history of the trauma compounded by the specter of future retaliation from Mr. Ketaabchi described by her daughter, also foretells a gradual recovery. On the other hand, the absence of any pre-trauma psychiatric history and presence of strong support from her daughters are factors that likely help to explain why she has begun to improve and bode well for the possibility of a robust recovery.

31. Ms. Bahrami appears to have utilized mental health care in an inconsistent fashion, taking medication and attending psychotherapy sporadically. She may need to d both more regularly in order to fully treat her PTSD and Major Depression.

THE ORIGINAL COPY SIGNED AND NOTRIZED BY DOCTOR KATZ.

DOCTOR CRAIG L. KATZ REPORT

Doctor Katz is graduated from Harvard University and working for one of the best hospitals, Mount Sinai Hospital

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IRENDOKHT BAHRAMI,
Plaintiff,

V.

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

Defendant.

Evaluation of Barry Rosenfeld, PH.D., A.B.P.P.
Licensed Clinical Psychologist

Irandokht Bahrami was referred for a psychological evaluation by her Dr. Craig Katz, a psychiatrist evaluation Ms. Bahrami in the context of her ongoing civil law suit. Specific questions posed by Dr. Katz were the extent and credibility of Ms. Bahrami's current psychological symptoms. Prior to the present evaluation, Ms. Bahrami was informed of the limits of confidentiality in this evaluation. Specifically, Ms. Bahrami was informed that the results of this evaluation would be made available to Dr. Katz and her attorney, and that no information disclosed in the context of this evaluation could be considered confidential. Ms. Bahrami appeared to understand the limited confidentiality in this evaluation and consented to be evaluated. She was evaluated with the assistance of a Farsi-speaking interpreter, Gohar Zahregian.

Source of Information:

1. Abbreviph.ated clinical interview with Irandokht Bahrami, conducted by Barry Rosenfeld, September 16 2008.
2. Psychological testing with Irandokht Bahrami, conducted by

Barry Rosenfeld, PH.D., 3. Civil Complaint number 05Civ.3929(Irandokht Bahrami v. Mohammad Ali Saadat Ketabchi), dated April 14 2005.
4. Transcript of telephone conversation, undated, provided by Irandokht Bahrami
5. Psychological testing conducted by Craig Katz, M.D., dated December 26 and 27 2007.
6. Psychiatric evaluation signed by Robert H. Berger, M.D., dated February 28 2006.
7. Millon Clinical Multiaxial Inventory, 3rd Edition, Computerized Interpretive Report, dated January 12 2006.

Relevant Background Information: According to the civil complaint, Ms. Bahrami alleged that she was raped and sexually assaulted by Mr. Ketabchi in January of 2005. She explained that this incident arose shortly after the termination of a long standing relationship she had maintained with Mr. Ketabchi, although she described herself as a "prisoner" throughout the period of time she was involved with Mr. Ketabchi. She explained that she had met Mr. Ketabchi through her work in a store she operated, and he coerced her into having sex with him on numerous occasions ("he{ said } he's gonna kill me and all my family") and living under extremely restrictive conditions he imposed. Ms. Bahrami provided and undated telephone transcript that supported her report, with extensive dialogue attributed to Mr. Ketabchi in which having harassed and threatened her for failing to adhere a curfew he had imposed. She recalled counseling at a " rape center." She added that she has seem several psychiatrists and psychologists since that time, and has been taking psychotropic medications, but was unable to provide details about either the treatment she has received or the medications she is currently prescribed.

In January of 2005, Ms. Bahrami filed a Civil lawsuit alleging physical and emotional damages as a result of the physical and psychological trauma she has experienced. However, a report

signed by Robert H. Berger, M.D., dated February 28 2006, while describing a range of psychological symptoms, characterized Ms. Bahrami as suffering from " longstanding personality defects" rather than attributing her symptoms to the alleged rape and abusive relationship. Dr. Berger's report concluded that "Ms. Bahrami's unstable personality organization has led to a fragile sense of self, low self-esteem, depression, anxiety and anger,...she has a pathological sense of entitlement that leads her to rationalize and to justify any demand on others or complaint against others. Whether consciously or unconsciously fabricated. The plaintiff's reliability and credibility are seriously flawed and she has persistently provided statements that are both internally and externally inconsistent with her reported symptoms." The present evaluation was requested in an effort to assess the " reliability and credibility." of Ms. Bahrami's report, along with the extent to which any psychiatric symptoms may be deliberately fabricated.
Of note, Dr. Beger's report appears to have relied in part on the results of a self-report measure the Millon Clinical Multi-axial Inventory, 3rd edition(MCM-III). However, not only is the use of the test highly questionable(given Ms. Bahrami's limited English fluency), but even with accurate translation, the appropriateness of an interpretation of Ms. Bahrami's responses to the MCMI-III, the profile generated by her responses was not consistent with Dr. Berger's diagnostic formulation. Her MCMI-III profile indicated considerable psychological distress(depression, anxiety) in conjunction with more longstanding insecurity, dependency and a need for approval. These depression and anxiety symptoms are likely to reflect situational or recent stressors. Unfortunately, because Dr. Berger's report did not specifically attribute any of his diagnostic or" psychiatric-legal" conclusions to psychological test data, further analysis of the extent to which his misinterpretation of these data contributed to his opinion is not possible.

Behavioral Observations/Mental Status Examination: Ms. Bahrami a short, olive-skinned woman, arrived for evaluation well dressed and neatly groomed. She was easily engaged in the evaluation, and made regular eye contact with the examiner. Her speech was rapid and somewhat pressured at times, offering extended answers to even simple questions, but with no evidence of disorganized thinking or loose associations. She worked quickly on the tests administered, frequently commenting on the tests as she completed them. There was no evidence of concentration difficulties, fatigue or inadequate attention to the tasks presented. She described her mood as "comfortable" and her affect was varied and appropriate to topic. She denied recent feelings of depression or anxiety, but noted that she has suffered from severe depression and anxiety symptoms in the past, particularly in the months following she was sexually assaulted. She denied recent sleep or appetite difficulties, fatigue or concentration difficulties. She id, however, acknowledge occasional nightmares(approximately once or twice in the past month) in which she relives the sexual assaults she reportedly suffered. She denied suicidal or homicidal ideation, and denied auditory or visual hallucinations, but revealed considerable paranoia related to Mr. Ketabchi(" I know he's gonna kill me"). There was no evidence of bizarre, unrealistic beliefs(I.e. delusions). She was alert and oriented to person, place and time, and her memory, concentration and abstract reasoning abilities were grossly intact. Her overall intellectual functioning appeared approximately average and her insight and judgment were intact.

Results of Psychological Testing:

<u>Tests Used</u>

Dot Counting Test(DCT)
Miller Forensic Assessment of Symptoms (M-FAST)
Test of Memory Malingering (TOMM)
Trauma Symptom Inventory (TSI)

Because of Ms. Bahrami's limited language fluency, psychological testing relied heavily on non-verbal measures. For example, on the DCT and TOMM, two non-verbal measures of symptom exaggeration that address exaggerated complaints of concentration and memory problems, Ms. Bahrami's performance indicated that she likely put forth her best efforts. There was no evidence of inadequate effort or deliberate exaggeration of cognitive problems. Likewise, on the M-FAST, a clinician-administered screening test for exaggerated psychiatric symptoms, Ms. Bahrami's responses indicated no evidence of deliberate exaggeration. Thus, across all of the measures administered, Ms. Bahrami appeared to put forth her best efforts and revealed no indication of symptom exaggeration.

Because of her limited English fluency, only one self-report measure was administered(the TSI), and the validity of these responses is highly questionable given the difficulty Ms. Bahrami had in completing this measure. Even with the assistance of a Farsi-speaking interpreter, Ms. Bahrami needed frequent explanations for the language used in this questionnaire. As such, Ms. Bahrami's TSI responses are of questionable accuracy, both because of language difficulties as well as what appeared to be highly defensive presentation, endorsing very few items indicative of any psychological symptoms. Indeed, the only symptoms Ms. Barhami endorsed were those indicative of avoidance behaviors with all other subscales falling at or below the normative sample. Theses findings stand in stark contrast to testing administered by Dr. Katz in December of 2007, as both the Beck Depression Inventory and the PTSD Symptom Checklist indicated extremely severe symptoms. This discrepancy may reflect a marked degree of improvement in the intervening months, or limited understanding at either or both of these assessments.

Summary/Recommendations: Ms. Bahrami's current clinical presentation was not indicative of any significant psychiatric

disorder, although she described a relatively severe period of anxiety, depression and PTSD symptoms in the months following her last encounters with Mr. Ketabchi. The extent to which this reported change reflects successful treatment versus the spontaneous remission that can occur in PTSD cases(particularly those grounded in sexual assault) is unclear. Moreover, although assessing the accuracy and validity of Ms. Bahrami's report of past psychiatric symptoms is inherently difficult, there was no evidence of any deliberate symptom exaggeration during the present evaluation. Further, despite its questionable validity because of linguistic and cultural issues(and despite Dr. Berger's conclusions to the contrary), there is no evidence of deliberate distortion evident in Ms. Bahrami's responses to the MCMI-III administered by Dr. Berger in 2006.

BARRY ROSENFELD, PH.D., A.B.P.P.
LICENSED CLINICAL PSYCHOLOGIST
DIPLOMATE(FORENSIC), AMERICAN BOARD OF PROFESSIONAL PSYCHOLOGY.
Dr. Rosenfeld is the most famous Forensic psychologist in New York City.

The original copy contains Doctor Barry Rosenfeld's signature.

JAMES S. IRANI, ATTORNEY AT LAW

September 8 2005

HOMORABEL KEVIN N. FOX
UNITED STATES MAGISTRATE JUDGE
40 Centre Street, Room 540
New York, New York 10007

Re: Irandokht Bahrami v. Mohammad Ali Saadat Ketabchi

Dear Judge Fox:

This office represent plaintiff Irandokht Bahrami in the above-captioned case transferred to your honor just recently. I did receive motions field by defendant's counsel; however, the following response is submitted now because of confusion in filing and bewilderment by Ms. Patricia M. Dillon in reversing the facts and misrepresenting the issues.

Plaintiff served her discovery requests on June 15, 2005, but the attorney for defendant failed to disclose, perhaps purposefully, that they did not respond to any single discovery. Plaintiff served her Notice of Deposition on defendant for a July 27, 2005 on june 15, 2005, but the attorney for defendant failed to disclose, perhaps purposefully, that they did not respond nor appear for his deposition. They did not even have the courtesy to inform plaintiff's attorney that they would not show up for deposition.

This has been the position of defendant's counsel from the beginning of the case. Now she comes forward and misrepresents the facts in anticipation of favorable decision in her client's favor. Counsel for defendant Mohammad Ali Saadat Ketabchi represents that plaintiff has made reports to many officials but presents no evidence of her claims. Counsel for defendant Mohammad Ali Saadat Ketabchi represents that

plaintiff has been acting recklessly and in frenzy manner without any evidence of her claim. Counsel for defendant Mohammad Ali Sadaat Ketabchi represents that her client is an innocent man who "had an extra marital relationship" with plaintiff. She fails to state that defendant plaintiff has filed a sexual assault and rape case against Mohammad Ali Saadat Ketabchi. Counsel fails to state, perhaps purposefully, that defendant Mohammad Ali Saadat Ketabchi has repeatedly and constantly and constantly abused, threatened, beaten and raped plaintiff and kept in constant fear of her life if she ever disclosed his own sadistic and abusive behavior.

The present condition of plaintiff is the direct product and making of defendant Mohammad Ali Saadat Ketabchi. He is trying to hide behind such baseless allegations by his counsel. He is trying to close this case without complying with discovery requests and appearing for a deposition.

On june 15, 2005 defendant was served with simple and basic discovery requests plaintiff requested defendant's telephone statements for a certain period of time. His response was that is was vague. What is vague is defendant's conduct in trying to conceal his sadistic behavior behind his counsel's misrepresentation. Defendant Mohammad Ali Saadat Ketabchi's conduct and behavior have been so sadistic, brutal, threatening and abusive that puts his own mental condition in question and for that plaintiff requests from this court to compel him submit for mental examination.

Counsel for defendant Mohammad Ali Saadat Ketabchi tries to blame plaintiff for delays in discovery, however, she fails to admit that plaintiff served her discoveries on June 15, 2005 and they did not respond responsively. As plaintiff Bahrami submitted her deposition request first, defendant Mohammad Ali Saadat Ketabchi must submit to a deposition first. Counsel for defendant also fails to disclose that plaintiff has submitted

medical documents related to her condition. Counsel for defendant Mohammad Ali Saadat Ketabchi has claimed that defendant is a member of a highly respected educational institute in New Jersey but fails to disclose that the institute is a mosque and an Islamic Center, not a school.

Counsel for defendant is trying to misstate the facts and convolute the case reverse the issues. Plaintiff is a sexual assault and rape by this defendant. Defendant Mohammad Ali Saadat Ketabchi had controlled, manipulated, threatened, physically abused and beat up plaintiff and forced her in to silence for a period of number of years. The issue of plaintiff experiencing severe psychological disorders as a direct result of defendant Mohammad Ali Saadat Ketabchi is not the only claim by plaintiff, it is not the only or main claim in the action.

Plaintiff has her complaint for sexual assault and rape and now counsel for defendant Mohammad Ali Saadat Ketabci tries to reverse the issues and cause plaintiff to undergo the same threatening and emotional issues as before and cause annoyance and oppression or embarrassment based on FRCP 26(c) not reasonably calculated to lead to the discovery of admissible evidence based on FRCP 26(b)(1). We hereby oppose to the motion submitted by counsel for defendant and request that parties be ordered to complete discovery process and be prepared process and be prepared for trial. If the motion of counsel for defendant is granted, plaintiff, in light of the foregoing, will request presence of a court reporter to transcribe the discussion during the examination as per Di Bari v.Incaica Cia Armadora, S.A, 126 F.R.D. 12 (E.D.N.Y. 1989).

Plaintiff hereby requests that defendant Mohammad Ali Saadat Ketabchi be ordered to comply with plaintiff's discovery requests, submit to deposition and mental examination so that the case could proceed accordingly.

Respectfully submitted, James S. Irani

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IRENDOKHT BAHRAMI,
Plaintiff,

V.

COMPLAINT
APRIL 14 2005

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

COMPLAINT FOR SEXUAL ASSAULT AND RAPE

COMES NOW Plaintiff, Irandokht Bahrami, and respectfully states her complaint for sexual assault and rape against **Defendant, Mohammad Ali Saadat Ketachi,** as follows:

PRELIMINARY STATEMENT

1. This action for sexual assault arises out of the unlawful rape of plaintiff Irene Bahrami by Mohammad Ali Saadat Ketabchi on or about January 25 2005 in New York, New York.

THE RAPE

2. Plaintiff Irandokht Bahrami is an individual who resides in New York, New York

3. Plaintiff is a citizen of the state of New York and was a New York citizen at all times pertinent and relevant to the incidents described in this complaint.

4. Defendant Mohammad Ali Saadat Ketabchi is an individual who resides in the state of New Jersey.

5. Defendant Ketabchi is a citizen of the state of New Jersey and was a New Jersey citizen at all times pertinent and relevant to the incidents described in this complaint.

JURISDICTION AND VENUE

6. Plaintiff is a citizen of the state of New York for purposes of diversity jurisdiction under 28usc1332.
7. Defendant Ketabchi is a citizen of the state of New Jersey for purposes of diversity jurisdiction under 28usc 1332
8. The court has original subject matter jurisdiction with respect to this action pursuant to 28usc 1332 as these exists complete diversity of citizenship between plaintiff and defendant Ketabchi and the amount in controversy exceeds Seventy Five Thousand Dollars($75,000.00), exclusive of interest and cost.
9. Defendant Ketabchi is subject to the jurisdiction of this court pursuant to 28usc 1332 with proper venue pursuant to 28usc 1391.
10. Defendant Ketabchi is a nonresident of New York, is subject to the jurisdiction of this court pursuant to the New York state lone-Arm Statute, CPLR302, in that he committed a tortuous act within the state of New York.

CAUSE OF ACTION FOR SEXUAL ASSAULT

11. On or about January 25 2005 at approximately 5:00pm, Defendant Ketabchi called on plaintiff Irandokht Bahrami and asked to visit her. Plaintiff Bahrami agreed and shortly after his entry into plaintiff's apartment, Defendant Ketabchi demanded sexual pleasure from plaintiff Bahrami which she refused. Defendant Ketabchi hit plaintiff, knocked her on the floor and raped her in violation of the laws of the state of New York, including in violation of New York state penal law 130.1, 130.2, 130.3, 130.8, 130.11. Defendant Ketabchi threatened plaintiff Bahrami not to report the incident otherwise she would get killed.
12. Defendant Ketabchi had assaulted, reaped, abused and threatened plaintiff on many previous occasions, however, plaintiff Bahrami was always in fear of death.
13. Defendant Ketabchi had threatened plaintiff Bhrami not to leave her apartment and controlled her via people watching her and via numerous telephone calls.

14. Defendant Ketabchi threatened plaintiff bahrami, via telephone calls that she had no right to leave her apartment without his permission.

15. Plaintiff Bahrami has been living in a state of fear, shock and hysteria due to Defendant Ketabchi's tortuous acts and threats.

16. Plaintiff Bahrami has sustained numerous physical, physiological, psychological and mental injuries as a direct result of Defendant Ketabchi's tortuous acts.

17. Defendant Ketabchi constantly forced plaintiff Bahrami into having group sex with other men and women which plaintiff always refused and as a result would receive beatings and threats.

18. Plaintiff Bahrami has undergone medical surgeries due to Defendant Ketabchi's tortuous acts.

19. Plaintiff Bahrami is now suffering from severe psychological disorders as a direct and proximate cause of tortuous acts perpetrated by Defendant Ketabchi.

20. On information and belief, Defendant Ketabchi has a history of attempting to commit similar acts of violent sexual assault on females he has made friends with and has thereby established a pattern and practice of such unlawful act.

DAMAGES

21. As a direct and proximate result of the sexual assault and rape perpetrated by Defendant Ketabchi upon her, plaintiff has suffered stress, emotional distress and mental pain and suffering and adverse physical consequences and has been damaged in the sum of **Two Million ($2,000,000.00) Dollars**.

22. As a direct and proximate result of the sexual assault and rape perpetrated by Defendant Ketabchi upon her, plaintiff has been subjected to public scorn, hatred, and ridicule and has suffered threats against her life and physical safety and has been damaged in the sum of **One Million($1,000,000.00) Dollars**.

23. As a direct and proximate result of the sexual assault and rape perpetrated by Defendant Ketabchi upon her, plaintiff incurred special damages, including medical and legal expenses

in the amount of **One Hundred ($100,000.00) Dollars**.

24. As a direct and proximate result of the sexual assault and rape perpetrated by Defendant Ketabchi upon her, plaintiff claims **Five Million($5,000,000.00)Dollars** as punitive damages against Defendant Ketabchi

25. The Sexual assault and rape perpetrated by Defendant Ketabchi upon plaintiff was an intentional, criminal act.

26. The conduct of Defendant Ketabchi demonstrates willful, reckless and intentional criminal conduct and that entire want of care that raises a conscious indifference to consequences.

WHEREFORE, Plaintiff Demands:

A: A trail by jury;

B. That judgment be entered against Defendant, Mohammad Ali Saadat Ketabchi, for special damages and punitive damages in an amount of **EIGHT MILLION AND ONE HUNDRED THOUSND($8,100,000.00) DOLLARS** together with interest, Dr. Katz and Dr. Rosenfeld's fees of this action; and any other further relief as may by just and proper in the circumstances.

New York, New York

James S. Irani
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IRENDOKHT BAHRAMI,

Plaintiff,

V. 05-cv-3829(RMB)

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

Defendant.

---x

NEW YORK, NY
October 14 2008
9:30AM

BEFORE:
HON.RICHARD M. BERMAN,
District Judge
APPEARANCES

CERTAIN&ZILBERG
Attorneys for Plaintiff
BY: MICHAEL ZILBERG, ESQ.
GARY CERTAIN, ESQ.

THE DWECK LAW FIRM,LLP
Attorneys for Defendant
BY: JACK S. DWECK, ESQ.

The Court: I'm ready to go.
Who would you call as your first witness; that would be, who would be cross-examines?
Mr. Zilberg: Thank you, Judge. Dr. Katz. He's outside.
The Court: Okây, get him.
Mr. Zilberg: Should I get him?
The Court: Yeah, sure.
Do we have any witnesses in the audience that should excused for any of the testimony.
We'll start with cross examination.
Mr. Dweck: Good morning, your honor. Will
You honor entertain any Motion in limine?
The Court: I do not think we need them right now. I think we should get the trial over with.
Mr. Zilberg: Take the stand. Craig Katz. Craig Katz,
Called as a witness by the defendant,
Having been duly sworn, testified as follows:
CROSS-EXAMINATION
BY MR. DWECK:
The Deputy Clerk: Thank you, sir. You may be seated.
Mr. Dweck: Thank you, your Honor.
Q: Good morning, Dr. Katz.
A: Good morning
Q: Dr. Katz, my name is Jack Dweck. I'm the attorney for Mr. Ketabchi. And I need to inquire of you first, sir, did you bring your office records with you, pursuant to
the subpoena that we served on you office?
A: I brought the records but I have never received any subpoena.
Q. But you have your office records?
A: I do.
Q: May I have them, please…
Mr. Dweck: May I approach the witness, your honor?
The Court: Sure
Mr. Dweck: May I have your office records?
A: There are all of my records.
Q: Thank you.

Dr. Katz, you were retained by the Zilberg & Certain firm in December of 2007 to examine the plaintiff in
This action; am I correct, sir
A: Yes
Q: And the purpose of your having been retained was to determine whether she had been raped on a particular
Day in a particular year; is that right, sir?
A: That is not my understanding of the question that was asked of me.
Q: Well, were you able to make any determination in
Any of the examination that you conducted of the plaintiff, whether she had been raped on a particular day in 2005, sir?
A: I was able to conclude that she described a picture consistent with someone who had been traumatized and raped.
The court: But you do not know of your own knowledge whether she was or was not raped on that day?
A: No, I do not.
Q: and Dr. Katz--
The Court: So when you say in page 10 of your submission, your affidavit, that you used the phrase, quote, spurred on by an especially brutal rape in 2005, then you go on, you don' t have any knowledge of that?
A: No, can I do not.
Q: And would it be correct, Dr. Katz, that whatever information you got, you only obtained from the plaintiff in this action, correct?
A: the information that I have was from the plaintiff, as well as other records that were provided to me.
Mr. Dweck: Your Honor, at this time, I would move to exclude any testimony by Dr. Katz with respect to records of Dr. Rosenfeld, since they have never been furnished to us, your honor?
Mr. Zilberg: Judge, the records have been furnished.
The Court: Well, there is no way I can resolve that. They either have or haven't.

Mr. Zilberg: They were delivered to defendant. The Court: Do you have them now?
Mr. Dweck: Do I have them?
The Court: Yeah.
Mr. Dweck: I believe so, yes.
The Court: So give them to me.
Mr. Dweck: They were delivered to us, to the best of my knowledge, on Friday of last week.
The Court: Well–
Mr. Zilberg: Because they were not requested until probably about two hours before I had to leave the office on Wednesday for Yom Kippur, even though the defendant had notice of Dr. Rosenfeld's involvement from the previous Friday, as I wrote to the --
The Court: It's pretty late Counsel. We'll keep going, Mr. Dweck.
But I'll take your application under advisement.
Mr. Dweck: Very well, your Honor.
The Court: This case has been pending for years. So to produce documents the Friday before the trail starts, doesn't make any sense to me, to be honest with you.
Mr. Zilberg: Judge, Dr. Rosenfeld examination that was ordered by Dr. Katz, which was done in conjunction with his examination.
The Court: I got it, I get it.
Mr. Zilberg: Which was only done within this past couple of weeks, Judge.
The Court: Go ahead, Mr. Dweck.
Mr. Dweck: Very well, your Honor.
Q: And, Dr. Katz, did you find the plaintiff to be credible in the course of the examination you conducted of her?
A: Yes, I did.
Q: Were you aware that in the complaint in the action, she alleged that the rape took place or about January 28th, 2005?
A: Yes.
Q: Were you also aware that, in her deposition, on seven

separate occasions, she testified that the rape took place on January 27, 2005?
A: I did note that, yes.
Q: Did you also find, Dr. Katz, that, thereafter, she changed her testimony and said the rape took place on January 25, 2005?
A: I was aware that she changed it.
Q: Were you also aware that on January 25th 2005, the plaintiff testified that, either on that day or the day before--
The Court: Well, she testified on that day?
Mr. Zilberg: No, Judge, that she
Q: Testified on that day, or on the day before she was taken to theater and dinner by the defendant?
A: I have some recollection of that, yes.
Q: And, Dr. Katz, is it your testimony then, sir, that with the plaintiff having changed her testimony, at least three times under oathe, that you still found her to be credible.
A: I found that she was
Q: Just yes or no, please, Doctor, if you can.
A: Yes.
Q: And Doctor, did you examine any rape kit with respect to the plaintiff's allegations of rape?
A: No, I did not.
Q: There wasn't any, was there?
A: Not that I am aware of.
Q: Did you see any police records, sir?
A: No, I did not.
Q: There were not any police records of a rape; were there, sir?
A: Not that I have seen.
Q: Did you examine any medical records that reflected the plaintiff having complained that she was raped?
A: No, I did not
The Court: I think we have covered it. He does not have any direct knowledge that this rape occurred.

I still go back to my question, **I don't know where--how did you come up with the phrase, "Spurred on by an especially**

brutal rape in January 2005 if you had no knowledge, directly, that such an incident occurred?"
A: I was able to conclude that she described a picture consistent with someone who had been traumatized and raped.

The Witness: also, as a psychiatrist, I can never know that something has happened. But what I -- what I can know is whether someone-- what story they relate to me. And I can also look for elements that make for a coherent and consistent story. And those I did find in what she described to me. And in the various other records that I reviewed.
Q: What other records that you reviewed that made the story that she gave you coherent, Dr. Katz?
A: Well, you have my records, so I can't--I'll have to do it by memory. But I --I have her deposition, I have Dr. Berger's reports, I have Dr. Berger's notes. I also have Dr. Reosenfeld's report.
Q: Doctor, you have submitted in your affidavit that she suffered from depression; am I correct, sir?
A: That is correct.
Q: And that's chronic depression, is that correct, sir?
A: That's correct.
Q: And that chronic depression could be brought on by any kind of a trauma, would that be correct, sir?
A: That is true.
Q: Would the murder of her sister 27 years ago be a cause for depression?
A: It's a possibility.
Q: A possibility?
A: Yes.
Q: Would the death of another sister, seven years ago, be another basis for the plaintiff being one who suffers from chronic depression?
A: It could be.
Q: Now, sir, would the fact that the plaintiff was beaten by her first husband in Iran be a basis for her to suffer from

chronic depression?
A: It's a possibility.
Q: Would the fact that she immigrated to this country to escape from her husband beating her in Iran be a basis for her to have chrônic depression?
A: It would be possible.
Q: And would all of those factors, Dr. Katz, be something that would contribute to her having posttraumatic stress syndrome?
A: They could.
Q: Can you say, Doctor, with any certainty at all that the PTSD that you described that she suffers from was caused by any of these different factors that you and I just talked about?
A: What I--what I can say, is that she appeared to have posttraumatic stress disorder related to the events that she described to me with regard to Mr. Ketabchi. It is possible, consistent with how PTSD develops, that post experience may make someone more vulnerable to developing PTSD in response to a recent current trauma.

The Court: Could you conclusion be the same, and seemed to suggest just now, that it is based on her relationship with him, as opposed to any particular episode with him.

The Witness: Yes, it--it--if I'm understanding your question, it could certainly relate to the --the events that occurred in the course of their relationship, in addition to a particular event.
The Court: Yeah, or even apart from.
The Witness: It' a possibility.
By Mr. Dweck:
Q: Dr. Katz, you examined, I take it, the affidavits submitted by the plaintiff's two daughters?
A: I'm sorry, can you repeat question?
Q: I say you examined, I take it, the affidavits submitted by the plaintiff's two daughters?
A: No, I did not see those, I believe.
Q: Then you were not aware, then, that back in December of 2005, each of the two daughters swore to the fact that the

plaintiff was allegedly raped on January 27, 2005? You were not aware of that?

A: No, I wasn't.

Q: And Dr. Katz, would that be a factor in determining the credibility level of the plaintiff?

A: I found that she was inconsistent with the –with how she used numbers, in general. So I would not take a changing of the dates to be any reflection on her credibility.

Q: Well, Dr. Katz, when somebody signs an affidavit, they are swearing to the truth of that statement, you understand that?

A: Yes.

Q: And you have testified in court before?

A: Yes.

Q: And you know the gravity of somebody--that makes a statement that's false under oath?

A: Yes.

Q: And, Dr. Katz, the daughters swore that the rape took place on January 27th, 2005. Tell me that did not affect your opinion of her credibility, sir.

A: You mean that fact that what date it was that they were talking about--

Q: Yes, sir.

A: --you are asking me? No, it did not affect my opinion of their credibility.

The Court: Of the plaintiff's credibility.

The Witness: correct.

Q: Did you also see the affidavit submitted by the daughters in lieu of their direct testimony in this action, Dr. Katz?

A: No, I did not.

Q: Are you aware that the daughters changed their statement that the rape took place, now, on January 25th, 2005?

A: No, I'm not.

Q: Would that affect your opinion of the plaintiff's credibility, now that the daughters changed their statements under oath as to the date of the alleged rape?

A: No, it wouldn't.

Q: Still no.
A: Uh-huh,
Q: Doctor, isn't it a fact, sir, that a person's credibility is a key to your determining the truth or falsity of a statement made by a person?
A: Say it--I'm sorry, repeat the question?
Q: I say, isn't it a fact, sir, that the truth or falsity of a statement made by someone would affect your opinion as to how credible they are?
A: Possibly.
Q: Are you aware, Dr. Katz, that both daughters have sworn to the fact that the plaintiff was messed up and disoriented at the time that this alleged rape took place on January 25th?
A: No, I'm not. But it wouldn't surprise me.
Q: Are you aware, sir, that the plaintiff has submitted a sworn affidavit in lieu of her direct testimony in this case?
A: No, I'm not.
Q: so you are not aware then that the plaintiff has sworn to the fact that after this alleged rape took place, she cleaned herself up to make herself look presentable. I'm?
A: Not aware of that.
Q: Would that affect your opinion as to her credibility in this case, if you learned that was the case?
A: No, at all.
Q: Still no?
Q: Doctor, with respect to the plaintiff's medical records, did you ever examine the records of Dr. Surur, her OBGYN?
A: No, I did not.
Q: Did you ever examine the records of Dr. Capputo?
A: No, I did not.
Q: Were you aware that she asked Dr. Surur to submit a false statement to an insurance company in order for her to collect insurance money on a claim that she wanted to bring with regard to a urinary infections?

Mr. Zilberg: Objection.

The Court: I'll allow it.

The Witness: I should answer?
The court: If you know, if you have an answer.
The Witness: I don't.
A: I'm not aware of that?
Q: Did you examine the records of Dr. Seigel who treated her?
A: No, I did not.
Q: Did you examine the records of Dr. Show, who treated her?
A: No.
Q: How abut Dr. Luri, sir?
A: No.
Q: Did you examine his records?
A: No.
Q: Did you examine the records of Dr. Barrone, sir?
A: No.
How about--withdrawn. Did you, at any time learn, sir, that the plaintiff complained and suffered from urinary leakage?
A: I'm not aware of that, no.
Q: Would the examination of those medical records have been relevant in your formulation of an opinion with regard to the plaintiff and her condition?
A: Not in any direct way that I can think of, no.
Q: And the statements that--
The Court: Wait a minute, wait a minute, I didn't understand that
Q· how about if I suggest to you that--
The Court: Well, now we are to show him a particular record on a particulate date, that's one thing.
Q: Dr. Katz, if the plaintiff referred to the defendant as her husband, would that make a difference in your opinion of her credibility, sir?
A: No.
The witness: Well, I--I can't off the top of head, think of a way that those records would reflect on decision, my findings. I guess I can add, depending upon observations about her mental status.
Q: Dr. Katz, if I were to suggest to you that an examination of

those records of all of those doctors and then some additional ones did not contain any evidence of any bruises marks, effects of violence, or scars, would that have made difference in your opinion with regard to her credibility having been brutally raped on January --whatever the date in 2005 that she claims this rape took place?
A: Without knowing the dates of the exams, it is hard for
Q: How about if I suggest to you that--
The Court: Well, now we are getting into hypothetical. If you want to show him a particular record on a particular date, that's one thing.
Q: Dr. Katz, if the plaintiff referred to the defendant as her husband, would that make a difference in your opinion of her credibility, sir?
A: No.
Q: If she told several of the doctors that treated her that the defendant was her husband, would that make a difference in your opinion of her credibility, sir?
A: No, it would not.
Mr. Zilberg: Objection.
The Court: Overruled.
A: I would--I would want to know what the matter was.
Q: I want to --
Mr. Dwedk: Nay I approach the witness, your honor?
The Court: Yes.
Q: Doctor, I hand you these two sheets of paper which have been remarked as defendant's exhibit 7.
Would you take a moment now, sir--
A: Okay.
Q: Have you read the typed statement, Dr. Katz?
A: I have. It's hard for me to read the handwritten statement.
Q: Well, let's talk about the typed statement first.
Mr. Zilberg: Objection.
The Court: Overruled.
A: From what I can tell reading the letter--this is the fist time I'm seeing it. But if I'm following the --the letter, it looks like

she is asking the doctor to testify to a problem she didn't have after the bladder--that she had after the bladder surgery, that she did not have before.
Q: Dr. Katz, "No, urinary incontinence. Was only lying to get an AP repair. Do you see that, sir?
A: I see that, yes.
Q: Would that affect your opinion with regard to the credibility of the plaintiff in this action?
A: No, I don't have enough information to be able to judge whether the doctor's judgment of her lying is accurate or not. You have two pages of information here.
Q: So your statement then is you don't know enough about the doctor who made the entry, is that what you're saying?
A: I don't know enough about the doctor, I don't know enough the medical complaints, I don't have total information to arrive at an opinion.
Q: And the only way you could have had a more accurate opinion would be, Dr. Katz, if you had all her medical records and you reviewed them, is that correct, sir?
A: That would certainly help.
Q: And you didn't have any of that?
A: No, I did not.
Q: Doctor, I want to show you this record from Dr. Surr's notes. Do you see here where it says, "Sister killed 27 years
A: Yes, I see that.
Q: And you see the note after that, Dr. Katz, that says, " Patient very affected. And, since then, means"--I assume that means menstrual-- " I
Irregular." Do you see that?
A: Yes.
Q: Would that be a source of PTSD, Dr. Katz?
A: the death of a loved one could be, although it depends upon the circumstances.
Q: And did you ever inquire of the plaintiff about the death of her other sister, Purist, about seven years ago?
A: We discussed whether she had any similar past traumas in her

life. And she said no.
Q: So she didn't disclose to you that her other sister had died about seven years ago in a swimming pool accident?
A: She disclosed that some of her siblings had died, yes.
Q: And you would agree with me that that would be source of PTSD, wouldn't it, sir?
A: At least the grief. PTSD is a possibility, although not typical from the death of a loved one.
The Court: Is there a stipulation as to who Dr. Surr is?
Mr. Dweck: Dr. Surr, your Honor, was her treating OBGYN, your Honor.
The Court: Counsel, do you agree with that?
Mr. Zilberg: I would to have confer with the client.
The Court: You Don't know.
Mr. Zilberg: I don't know. I don't know offhand.
The Court: Okay. If you could do that and get back to me.
Mr. Zilberg: Thank you, Judge.
By Mr. Dweck:
Q: Dr. Katz, would you agree with me, sir, that the basic source of whatever information you obtained was from you four interviews of the plaintiff, and whatever tests you looked over?
A: And various records that were provided to me, yes.
Q: And those records included those of Dr. Berger, is that right, sir?
A: That was Dr. Berger's report, notes, depositions, the deposition of the plaintiff. I think the --and the notes of Ms. Murphy, one of her treating--or her psychotherapist.
Q: And, Dr. Katz, plaintiff distorted reality in many respects?
A: No, I would not.
Q: Did she tell you that her photograph was on billboards all over Europe?
A: She did describe that.
Q: Did you ever, in any way, verify the accuracy of that statement?
A: No, I did not.
Q: And Doctor, if that wasn't the case, that would be distortion

of reality; wouldn't it be, sir?
A: Certainly.
Q: Did you ever inquire of--with drown. Did you ever inquire of the plaintiff as to whether she was afraid to go out in the dark?
A: yes, I did
Q: Did she acknowledge to you that she was afraid to go out in the dark?
A: She did.
Q: Did she tell you that it arose from an incident when she went to midnight mass at a church.
A: We mentioned the midnight mass. I don't know if she made a causal connection between the two. But she mentioned the midnight mass.
Q: Did she tell you that both she and her daughters requested the defendant to tell her, and remind her repeatedly, no to go out after dark so that she could deal with her fears?
A: I don't-- no, she did not.
Q: Is someone being afraid of the dark also a distortion of reality, Doctor?
A: Not necessarily.
Q: Did she ever tell you that she was suicidal, Dr. Katz?
A: She said at one time she had been.
Q: And would someone that had suicidal ideation be one suffering from depression?
A: It is one of the potential criteria of depression.
Q: Is that also a distortion of reality, Dr. Katz, that one has suicidal ideation?
A: I'm not sure what you mean by that.
Q: Well, not everybody walks around thinking or committing or dealing with committing suicide, would you agree with that, sir?
A: Yes.
Q: And if someone had a suicidal ideation, that would be a distortion of reality, wouldn't sir. We don't all walk around thinking suicide.
The Court: We may not be all discussing what--a distortion of reality means.

By Mr. Dweck:

Q: Dr. Katz, you learned of course from whatever sources that the plaintiff had two abortions, did you not?

A: I was aware of at least one abortion.

Q: Would having two abortions be a source of someone suffering from chronic depression?

A: It's a possibility.

Q: Would that be considered a traumatic event, in many respects?

A: It's possible.

Q: Would those be a source of PTSD, dr. Katz?

A: It's not typical, but it could be.

Q: And, Dr. Katz, would having a fear of going out at night be a source of PTSD?

A: No, I think in this case it is actually a reflection of having PTSD.

Q: And Doctor, would it be correct, Dr. Katz, that you had no way of verifying anywhere what the plaintiff told you about an alleged rape, whether it actually took place?

A: No, I did not.

Q: And, Dr Katz, have you treated patients that have suffered from rapes before?

A: Yes, I have.

Q: And you're familiar with the fact that when someone suffers a rape, there is usually some empirical or extrinsic evidence of rape, such as a rape kit?

A: Certainly.

Q: Or a police report?

A: Yes.

Q: Or a complaint to the district attorney's office?

A: Yes.

Q: Or some hospital treatment?

A: Yes.

Q: Or some other medical treatment?

A: Yes.

Q: Or some psychiatric treatment?

A: Yes.
Q: you didn't find any evidence of any of that in the plaintiff's case, did you, sir?
A: Well, she--I had evidence of her psychiatric treatment.
Q: The psychiatric treatment was after she retained a lawyer in this case; isn't that so, sir?
A: I'm not aware of the chronology relative to retaining a lawyer.
Q: Well, what psychiatric treatment are you talking about, Dr. Rosenfeld?
A: I'm talking about Ms. Murphy.
Q: Were you aware that Ms. Murphy saw Ms. Bahrami after she retained a lawyer in this case?
A: I'm not aware of that.
Q: Would that make a difference in your opinion, Dr. Katz?
A: Not necessarily.
Q: Okay.
The court: We have to wrap up pretty soon, Mr. Dweck.
Mr. Dweck: Very well, your Honor.
Q: Would someone who had no clinical evidence or reason to have both breasts removed be in touch with reality if they went to a doctor and asked the doctor to remove both breasts?
A: People go to surgeons all of the time making requests. Don't know if that request is a breakdown in their reality.
The Court: Do you have an opinion on the hypothetical that Mr. Dweck proposed?
The Witness. I would say not necessarily.
By Mr. Dweck:
Dr. Katz, is it a usual occurrence, from a psychiatric standpoint, based on your experience, from someone to go to a doctor without any clinical evidence of having any disease or condition that warrants it, to ask to have both breasts removed?
A: well, people may go fro cosmetic reasons.
Q: To have both breasts removed?
A: To have them--to have them removed--I'm sorry, I misunderstood. Obviously, that would be somebody under

significant distress.

Q: Dr. Katz, did the plaintiff tell you in the course of any questioning or treatment, or inquiry by you, when this rape took place, in terms of time and place?

A: A: She told me January of 2005. I don't recall the exact date that she specified to me. She said--

Q: Did she tell you what time of the day?

A: I don't remember.

Q: Would it refresh your recollection, Doctor, if I suggested to you that the plaintiff has testified, and submitted an affidavit under oath, that the defendant appeared at her apartment at breakfast time, early in the morning, and remained until midnight?

A: That sounds consistent with what I recall, yeah.

Q: Did she also tell you that the rape took place in the course of that day?

A: She didn't specify when in the day, but that it occurred that day, that date.

Q: Did she describe the rape in any detail to you, sir?

A: No, she did not.

Q: Did you ask her whether she had any evidence of the rape, such as clothes or any semen or any--

The Court: We have been over that. I think we've got that.

Mr. Dweck: Very well, your Honor.

The Court: He has no direct knowledge of the rape incident

Q: Did you ask her to produce any ripped clothing or any evidence of any violence that occurred on the day that she claims the rape took place?

A: No, I did not.

Q: Would that have been corroborative of the statements that she claimed with respect to the alleged rape, if you had seen that?

A: Not necessarily.

Q: Have you known people, Doctor, that have such a level of anger that they would falsely accuse someone of something, such as a rape?

A. I have known of such people, yes.
Q: And have you, in your experience, come across people that, because of the anger would accuse someone of some criminal activity such as a rape, or such other similar felony, because of that anger?
A: I believe it happens.
Q: Would you agree with me, Doctor?
The Court: In your experiences with other patients or cases where that happens, is there any theme that causes them to make those allegations?
A: Well, I said I believe it happens because I have not had the direct experience of seeing someone make such a false allegation.
The Court: So you--but you said you were aware of some.
The Witness: Yeah. From speaking with other--from my non-professional life, or from colleagues.
The Court: Okay. So in speaking with them, is there any clinical basis for that--those actions or accusations that you are aware of?
The Witness: I mean there are--there may be psychiatric explanations, and there may be explanations born of somebody's personality.
The Court: Do you know, to be more specific?
The witness: If I can give you a specific example.
The Court: Yeah.
The Witness: Somebody who is in such a rage as a -for whatever reason. It could be because of how they are wired, who they are, or because of, say, a personality disorder, can certainly make a false allegation intending to seek revenge, or to seek contact with the person about whom they are making the allegation.
The court: I see. Can we get to redirect?
Mr. Dweck: I'm done, your Honor.
Mr. Zilbeg: Oh, thank you, Judge.
Redirect Examination:
By Mr. Zilberg:
Q: Doctor, just a moment ago, you were speaking about your

experience with regard to rape victims.
A: Yes.
Q: have you found, in your experience dealing with rape victims, that a statistically significant percentage of rape victims never report the rape?
A: I couldn't comment on the statistics of it, but a significant proportion of them I think take a very, very long
The Court: Overruled. If you know.
A: It's certainly a possibility, I --can--I can imagine how that could occur in a way that was not born of any intent to deceive.
The Court: Could such a person as counsel is describing fit within the category of persons you were talking about a minute ago when you said that--that it could be situations with someone with anger, personality issues, that could make false accusations; that is to say, could the relationship, if it was abusive, longstanding--even holding aside any rape--could that relationship have been such to cause someone, cause the plaintiff, to make an allegation of rape, even if it had not occurred, in you opinion?
The Witness: I'm Sorry, I--
The Court: By the way, I'm not saying that I know that there was such a prior relationship, I --counsel posed that it's a 16 year relationship, and it's abusive. And so I'm saying, could that be a category of case where that person would, or could, make a false accusation, based on the prior relationship?
The Witness: And, I'm sorry, I'm not sure if I am following your question. I'm sorry.
The Court: He --counsel is saying, suggesting a relationship that is long-standing and The abusive.
The Witness: Yes.
The Court: And so--and he's asking, in such a relationship, is it common or uncommon that people consider themselves married, that is one aspect. But I'm asking could--could an abusive relationship be a trigger for a false accusation of rape? Such as the kind of case that you have described to me a minute or so ago, that you may have discussed with colleagues or known

from the literature, et cetera.
The Witness: Could an abusive relationship be the basis of a false allegation or rape?
The Court: Combined with the person's personality.
The Witness: It's certainly possible, it would--I would have to think long and hard about why that allegation would be made when there may well be a heap of other abuses going on. On the surface, that doesn't make sense to me.
The Court: Does not.
The Witness: No.
The Court: So who would be in the category of persons who might make a false allegation of rape, what kind of--
The Witness: A possibility would be someone who was not necessarily abused at all, but--
The Court: All right.
The Witness: But let's say the person--the partner, the person that they are alleging the rape against has decided to break up with them, ends the relationship with them, and all of a sudden they are trumping this claim, for example. T
The Court: I see.
By Mr. Zilberg:
Q: Doctor, isn't it unusual to have a middle-aged client walk into your office with several traumas that have occurred throughout their lives?
A: It's--it's --
Mr. Dweck: Objection
The Court: I'll allow it.
A: It is not unusual..
Q: That doesn't mean that they have PTSD, already, does it?
A: That's right.
Q: And the multiple traumas, or various traumas they may have from many years ago, may make them more susceptible to developing PTSD, but it doesn't mean that they have PTSD?
Mr. Dweck: Objection.
The Court: I'll allow it.
Q: Isn't that correct?

A: Past traumas are a risk factor for having a posttraumatic reaction to a current trauma.
Q: Can you explain that, please?
A: yeah. someone--if a --if a traumatic event occurs to two different people. Let's say a sexual assault. And person A does not have any known traumas in their prior life, whereas person B, all other things being equal--and that's a very big caveat--all other things being equal, the person with the past traumas would be, you would predict would be more likely to develop a psychiatric reaction to the current trauma, such as PTSD.
Q: Do you find it clinically significant in doing your analysis of the plaintiff, the fact that she didn't get the exact date of the rape correct?
Mr. Dweck: Objection.
The Court: I'll allow it.
A: The way--I didn't see that it bore on her credibility. What it struck me as in the course of meeting with her, and also reviewing some of the records, I think, in particular, her deposition, is that she seemed to get numbers confused quite a bit. Not just dates.
Q: In general, when dealing with a victim of some sort of a trauma, when they come to your office to seek treatment or evaluation, does it ultimately matter whether they say this trauma happened to me a on January 25th, or this trauma happened to me a January 27?
Mr. Dweck: Objection.
The Court: I'll allow it.
a: It--it really--in the bigger picture, doesn't matter. In terms of dividing out something called acute stress disorder from posttraumatic stress disorder, two pathological reactions to trauma, because there is a number of days you are supposed to have, one versus the other, it could make a difference. But it would be a slight difference and, ultimately, probably not that significant.
Q: And does that issue regarding various records where the rape was indicated to have happened January 28th, January 27,

January 25th, does that change your analysis with regard to the credibility of the plaintiff in this case?
A: No. I mean, in fact, in my opinion, someone who is trying to deceive and has manufactured a story, would work long and hard in getting it right and not be changing their story.
The Court: Is it--going back to an answer you gave a minute ago--this is my words not yours--but are you suggesting that the jilted person could be one who would make a false allegation, for example, of rape?
The Witness: Yeah.
The court: And do you know if Ms. Bahrami falls or fell into that category with respect to the defendant in this case?
The Witness: Not from what I could tell. It looked like--from what I recall I think in his deposition, I think he made that claim, I think he tried to separate from her. And then she would threaten him. That's my recollection. But, no, the picture that she drew for me, and that I saw consistently drawn over and over in her stories, did not seem to bear that out.
The Court: So what was your interpretation of how their relationship ended?
The Witness: How it ended? I think in whatever the date was in January 2005, that she got to a point where she was I think so demoralized, I think she got to a point that where she had thought, such as I have nothing to lose and possible something to gain, by finally reporting this, despite her fears of retribution, despite her fears of cultural sanctions against her.
The Court: So it is your understanding that she broke off the relationship?
The Witness: Yes.
By Mr. Zilberg:
Q: Doctor, the time you spent with Ms. Bahrami and the testing that was done, that you reviewed, the records that you reviewed, was that sufficient for you to form a diagnosis in this case?
Mr. Dweck: Objection.
The Court: I'll allow it.
A: Yes, it was.

Q: And the diagnosis that you formed in the case, was that done by you to a reasonable degree of medical certainty?
Mr. Dweck: Objection, your Honor.
The Court: We have--I have read it. You can answer, but I think it is in the submission.
A: Yes.
Mr. Zilberg: Thank you very much.
The Court: Great. Thanks.
Mr. Dweck: Your Honor, may I? I have I think just three or four questions on redirect.
The Court: We don't want this to become a continuing--go ahead.
Recross Examination
By Mr. Dweck:
Q: were you aware, Doctor, that shortly after the relationship ended when Ms. Bahrami charged the defendant with rape, that he married someone else?
A: No, I'm not.
Q: Were you aware that he had a relationship someone else whom he ultimately married?
A: No.
Q: would that have made a difference, in your opinion, with respect to her level of anger or revenge?
Mr. Zilberg: Objection.
The Court: Overruled.
A: No, it wouldn't.
Q: you are aware that she is suing the defendant in this case for $8 million, are you not?
A: I saw that.
Q: And are you aware that no criminal proceedings were ever brought by her?
A: Yes.
Q: would that be evidence of revenge, Dr. Katz?
A: Not necessarily
Mr. Dweck: No questions.
Thank you, your honor.

The Court: Thanks.
The Witness: Thank you.
The Court: Next witness. Thanks very much.
(Witness excused)
Mr. Zilbeg. Plaintiff--I'm sorry, Judge. The next witness will be Atosa Shoughi, plaintiff's daughter.
I'll get her from outside.
The Court: All right.
Mr. Zilberg: Judge, our client has requested a rest room break.
The Court: well, she can. We can keep going.
Mr. Zilberg: Okay. Thank you, Judge.
The deputy Clerk: Clerk step up to the witness stand.
Ms. Shoughi: I wanna say something before I sit down.
The Deputy Clerk: Ma'am, I need to swear you in as a witness. And are those prescription glasses?
Ms. Shoughi: Yes.
The Deputy Clerk: remain standing for a moment and raise your right hand, please.
Atosa Shoughi, called as a witness by the plaintiff, having been duly sworn, testified as follows: Cross-Examination
By Mr. Dweck: The Court: You may be seated, please.
The Clerk: Thank you.
The Court: The witness seems to want to make a statement to--is that all right with the lawyers?
The Witness: No, I--can--I wanted to say something, but then I decided not to.
The Court: Not to. Okay.
Mr. Dweck: I'm sorry, I didn't hear, what-
The Court: She said she wanted to make a statement, but she decided not to.
Mr. Dweck: All right, okay?
The Court: Go ahead, sure.
Mr. Dweck: Thank you, your honor.
The Court. Yeah.
By Mr. Dweck:
Q: good mornings, Ms. Shoughi?

A: Good morning.
Q. I'm just going to ask you a few questions. If there is anything you don't understand, please tell me, and I'll rephrase the question, okay?
A: Thank you.
Mr. Dweck: May I approach the witness?
The Court: Yeah, sure.
By Mr. Dweck:
Q: Ms. Shoughi, is this your signature?
A: Yes.
Q: And I'm referring to exhibit 26. And is this your signature?
A: Yes.
Q: And, Ms. Shoughi, you signed this affidavit on December 29th, 2005; am I correct.
A: can I see the affidavit, please?
Q: Sure. Do you see the date on the bottom? This is the lower left-hand corner?
A: I'm sorry, I'm just reading.
Q: That's all right. I'm just going to ask you some questions.
A: Can I read that before you ask questions?
Q: I'm just going to ask you some questions, it's all right. Do you remember signing this affidavit?
A: No, I --no, no really.
Q: Is this in your handwriting?
A: Yes.
Q: And in December of 2005, did somebody help you prepare this affidavit?
A: I don't remember.
Q: Do you know it--what--if Mr. Irani prepared this affidavit, or told you what to say in this affidavit?
A: Maybe so.
Q: It was him?
A: Maybe.
Q: And do you know a Ayendi Ramos, a notary public?
A: No.
Q: Did you sign this paper in front of a Mr. Ramos?

A: no.
Q. Well, do you know how you came to write this piece of paper, exhibit 26?
A: I--actually, that's my handwriting, but I didn't, like, you know, I don't know that guy that you are calling, this name.
Q: Did anybody tell you what to put into this affidavit?
A: Mr. Irani, probably.
Q: Mr. Irani?
A: Yes.
Q. Did Mr Irani tell you to put the date of January 27, 2005 as the date that your mother got raped?
A: I --actually, you know what happened about this part, let me--let me, your honor, you know, clear myself.
Q: Just follow my question.
A: No. Let me clear myself. We said, one day,
Your Honor-
The Court: Let her answer.
A: Your honor, we said, you know what happened, we were not sure about the date. Because my mom, really, didn't like, you know, know. She was--raped constantly. But she never went forward, never went forward. So that's why it's like we said one day before Mr. Ketabchi departured from New York City to Dubai It sort of like it had to be January 25, 2005
So, **regardless, that I put January 27, 2005, it still is January 25th, 2005, because it is one day before Mr. Ketabchi departured from New York City to Dubai.** That's the only thing that I can say.
Mr. Dweck: Move to strike, your honor.
The Court: I'll allow it. Let's keep going.
Q: Do you know that you swore to this date of January 27, Ms. Shoughi?
A: well, at the same time, I said one day before Mr. Ketabchi departed from New York City to Dubai.
Q: Was January 27 2005, one day before Mr. Ketabchi left for Dubai?

A: No, at that time, he was in Dubai.
A· Yes.
Q: So when you swore to that piece of paper, it was false?
A: Because we were --we were----we were not sure about the date.
Q So, when you signed this piece of paper, it was false; is that correct?
A: Bu the date was--
Mr. Zilberg. Objection.
The Witness. Your honor, you should know that we were not sure about the date.
The Court: I understand.
The Witness: The date is not something that , you know--you know what happened, it's like, you know, your honor, what has happened is the most important thing. That's something that affected us, affected on me and my mom so badly. And then, your honor, the abuse that my mom went through, and we went through, through my mom. But the timing--I mean the timing is one day before Mr. Ketabchi departured from New York to Dubai. That's not the date. **But Mr. Ketabchi attempt to rape me** And you know it happened. Regardless of he did it on the 27th or 28th, it doesn't matter. But the thing it matters-- things that have happened.
The Court: Okay, I got it. That's enough. That's enough. Let's have the next question.
Ms. Shoughi--
A: Yes.
Q· --who prepared this affidavit that you signed on September?
A: No
Q: Was Mr. Ketabchi in the apartment?
A: Yes.
Q: And you mother was there?
A: Yes.
Q: And was your mother in good condition at the time you came home?
A: My mom? No, she looked like a mess her hair was a mess.

And then, also, it's like her eyes were red and like tearful, and she was very much disoriented.

Q: What time you got to your mom apartment?
A: I wouldn't say exactly, but--
The Court: Approximately.
A: Approximately between 7:00 and 7:30.
Q: Did you read the paper that your mother swore to in this Court?
A: No.
Q: No?
The Witness: Your honor, I want to say something.
The Court: Is that all right with you?
Mr. Dweck: I'm sorry, your honor?
The Court: She wants to say something. Is that all right with the two of you?
Mr. Dweck: I prefer, your honor, that we do it on a question and answer basis.
The Court: Okay. Wait until he asks a question.
The Witness: You know, I want to sy something.
The Court:No. Wait until he asks a question.
By Mr. Dweck:
Q: Ms. Shoughi, were you aware that your mother made this statement: After he raped me on January 25th, 2005, I cleaned myself up before my daughters arrived at my house. Did you know that your mother made that statement?
A: Maybe she meant that she went to the bathroom, I don't know what she meant by that.
Q: Well, were you aware that she made that statement?
A: No.
Q: Is it a fact, Ms. Shoughi, that your mother, when you saw her at the time you came home, on whatever the date was, that your mother was clean and looked presentable?
A: No, That's not true.
Q: Did your mother and Mr. Ketabchi have dinner with you and your sister that night?
A: Yeah.

Q: And you all sat at the dinner table together.
A: Yeah, but we didn't talk at all.
Q. But everybody had dinner together, is that correct?
A: Yeah.
Q: And at the time that you all had dinner, did you mother make any complaint while Mr. Keatbchi was there that she had been raped that day?
A: No--actually, I asked my--
Q: Yes or no, please.
The Witness: Your honor, you know what--
The Court: You are supposed to answer yes or no, if you--
The Witness: I didn't get the question, what was the question?
Q: Did your mother make any complaint at the dinner table that she had been raped by Mr. Ketbchi earlier that day?
A: No. After he left, she--
Q: And the dinner was at what time, Ms. Shoughi?
A: About, 9:00--I don't know, 9:00--
Q9:00 o'clock in the evening?
A: Yeah.
Q: And you're sure that Mr.Ketabchi was there at that time, yes?
A: Yeah. Of Course.
Q: And how late did he stay that day?
A: Up to--
Q: Or that night.
A: --maybe midnight; 11:30, 12:00 o'clock.
Q: Okay. And, Ms. Shoughi, were you living at the apartment with your mother at that time?
A: Yeah.
Q: And did you stay for the entire evening until Mr. Ketabchi left, when you say he left at midnight?
A: Yeah.
A: Anybody could have been a father figure for us, because we were kids. And then we grow up. And he was not like, you know, a--a guy, an older guy who was like, you know, in there, and we accept him like, as like a father figure. But he

Q: And did your sister spend the night there, as well?
A: Yes.
Q. And was Mr. Ketabchi--you knew that Mr. Ketabchi was friends with your mother for many years, is that correct?
A: I don't call that friends
Q· Well, they had a relationship for many years, didn't they?
A: The relationship was based on harassing. You know, he harassed my mom
The Witness. Your Honor, he harassed my mom. He said you know like, you know--
Q: Ms. Shoughi, just--if you--if you would just stick my questions, we could get finished with this very quickly.
The Witness: Yeah, but you honor, we went through--
He wasn't rally a father figure for us. You know harassing--
The Court: I see. Yeah, Yeah, I have it.
The Witness: All right.
Q· Did you ever see ever see Mr. Ketabchi, in the apartment with you and your sister and your mother, have meals with you on a regular basis?
A: Yeah.
Q: Yes. And you didn't witness your mother being raped on whatever the date was that you claim
A: No, I was--
Q. And you didn't see any ripped clothing on your mother when you came home?
A: Yes, I did. Yes, I did.
Q: Did you save the ripped clothing?
A: No. My mom never--you know what? We--
Q: No. My question is, is that ripped clothing in existence today?
A: I--I--really don't know.
Q: Just yeas or no. If you know.
A: I don't know.
Q: You don't know.
Did you ever--with drown.
Q: Ms. Shoughi, did you attend school in New York?

A: Yes.

Q: Did you ever tell your mother to go to the police?

A: Yes.

Q: Did you go to the police with your mother?

A: Yes.

Q: Did you ever hear your mother tell the police that Mr. Ketabchi raped her?

A: Yes.

A: Actually, she id it right in front of my eyes. And then the lady was working there, she--you know the lady who was working there said, you know what, this is a rape case, I'll--I have to call-

Q: Did you ever take your mother to a hospital--

A: No.

Q:--after she told you that the rape took place?

A: No.

Q: Did you ask you mother to prosecute Mr. Ketabchi for the criminal offense--

A: Yes.

Q: --of rape?

A: Yes.

Q: Did she do it? Yes or no?

A: I remember in February--

Q: Just yes or no, please.

A: She asked Dr. Irani to take Mr. Ketabchi to criminal court, but Dr. --Mr. Irani didn't do it.

Q: He didn't do it?

A: No, because Dr. Irani is working for Mr. Ketabchi, as you know.

Q: And the police station is near your house, isn't?

A: Yes.

Q: Did you take your mother to the police station and ask them to arrest Mr. Ketabchi?

A: Yes.

Q: Did they do it?

The Court: Wait, wait. When, when did you do it?

The Court: When did you do it--
The Witness: I did it in February of 2005.
The Court :--which year
The Witness: 2005.
The Court. In February of 2005.
The Witness: Of 2005.
The Court. Wait, wait, you have to go slow. You went to what police station?
The Witness: Seventeen precinct.
The Court: And you filed a complaint?
The Witness: No, I didn't. You know happened, my mom was so scared that Mr. Ketabchi is going to kill us and all that stuff, that she like, I--we saw Detective Garrafalo or something. And then, she said, you have to give the name, you have to give the name. My mom had two tapes with her. And then, you know, she was scared that Mr. Ketabchi send someone to kill us. Because, Mr. Ketabchi's previously said to my mom that I have someone, **Ahmad Rasai**, he freed out the guy from jail, he had spent a lot of money --
The court: Yeah, yeah. Wait. So you went to the precienct.
The Witness: Yeah.
The Court: And how long were you there?
Ther Witness: We were there about a few hours, because--
The Court: And you--who --you talked to a Detective?
The Witness: Yes. Ms. Garafolo.
The Court: You didn't file any complaint.
The Witness: My mom was scared for us.
The Court: So what happened then?
The witness: Then she went--my mom went back there in April.
The Court: You left the Precinct?
The Witness: Yeah. At first, you know, she--she took my mom to another room and everything, said you have to give the name, you have to give the name, it is important. Can't go to Dubai and bring him, in here, back to--into United States. This is not where you are going. If you are, you

know, if he is raping you, you have to file a complaint, but--she said. But, you know, my mom is a very weak-minded person. So she, like, was crying and said, you know, my kids will be killed, I'm going to be killed.

The Court: And then you went back to the precinct in April?

The Witness: Yes.

The Court: Of 2005?

The Witness: Yes.

The Court: And what happened in April?

The Witness: She filed a --for rape.

The Court: She filed the complaint?

The Witness: Yeah, she filed the complaint.

By Mr. Dweck:

Q: Ms. Shoughi, are you aware--did you see the police report in this case?

A: No.

Q: Are you aware that the police report does not say anything about?

The Witness: Oh, you know, actually--actually you know--

Q: Ms. Shoughi

The Court: Just, if you answer his question.

A: Yeah.

The Witness: Your honor, did--

The Court: Did you see the report?

The Witness: Your honor, the first question.

The Court: Did you see the report?

The Witness: Actually, I saw the report--I'm so Sorry. I said to my mom--

The Court: That's all he is asking.

The Witness: But, your honor, I-The Court: That's all he is asking.

A: Yes.

Q: Ms. Shoughi, are you aware that the police report does not say anything about rape; yes or no?

A: I just--

Q: Yes or no. Please.

A: Yes. I said to my mom, I my mom--
Q: It has nothing to do--Ms. Shoughi, please, we have to ask this question, and you have to give me an answer.
The Witness: But, your honor, can I say something ?
The Court: No. You just have to answer his questions. That's this part. And then you have to answer the questions of your mother's lawyer. That's the way it works.
The Witness: But, your honor--
The Court: That's the way it works.
The Witness: Okay.
By Mr. Dweck:
Q: Ms. Shoughi, your mother never charged Mr. Ketabchi with rape to the police, did she?
A: She did, I was there.
Q: But you are aware that the police report says nothing about raped?
A: Police. That was--
Q: Is that correct? Is that correct?
A: Yeah, but--
Q: And, Ms. Shoughi, isn't it a fact that you went with your mother to the police after you retained Mr. Irani to prosecute this case, after your mother retained him.
A: No.
The Witness: You know, what happened, we went
Q: Please Didn't Mr. Irani--
The Court: Do you have a copy of the police report?
The Witness: I'm sorry, your honor, but I don't understand what he is saying.
The Deputy Clerk: Ma'am--
The Court: If you don't understand the question, that's what you say.
Mr. Dweck: Then you tell me.
The Court: That's all.
Q: Ms. Shoughi, didn't Mr. Irani tell your mother to go to the police and file a report. Yes or no?
Q: And didn't Mr. Irani tell your mother to go to the police after

he started this lawsuit. Yes or no
A: Once before--
Q: Yes or no
A: --we went there once before, and twice after my mom talked to Mr. Irani.
Q: Are you aware, Ms. Shoughi, that there is only one police report that was filed by the police?
A: Two. Two.
Q: Did you see two police repots?
A: Yes, two.
Mr. Zilberg: Objection.
The Witness: It has to be two, your honor, I was with my mom.
The Court: Okay, I got it. Okay, Okay.
The Witness. One in April of 2005. And one after my mom talked to Mr. Irani. I was there. You know what, I'm the witness. **Actually, we went to the police station three times. Once she didn't file, and twice she filed--she--**
Q: Isn't it a fact that Mr. Irani told your mother to go to a psychiatrist after the lawsuit was started. Yes or no. Please. Yes or no.
A: I don't --I want--
Q: No.
A: No--
Q: Yes or no, please.
A: You are asking me, yeah, but you're asking me a question, I--I don't know.
The Court: Then just say you don't know.
A: I don't know.
Q: Okay. Did your mother got to a psychiatrist after--
A: You're asking me this question before, I said, I don't know.
Q: Ms. Shoughi, did your mother go to the psychiatrist after Mr. Ketabchi went to Dubai?
A: I don't --I don't know.
Q: Do you know how long--
A: I don't know.
Q: Please, do you know how long Mr. Ketabchi was in Dubai

after he left in January?
A: I--
Q: do you know who long he was there for--
A: I just want to --
Q: Just tell me yes or no.
A: You don't let me to answer, I'm sorry.
Q: No. you have to answer my question.
A: Yeah, but you don't--can I take my time and answer you I have to think about it, I'm sorry.
The Witness: Your honor--
The Court: Next question.
The Witness: --I don't--I have to think about it, your honor.
The Court: Okay. So think about it.
The Court: Okay. So think about it.
Q: Isn't it a fact that Mr. Ketabchi was away for more than 3 months?
A: No.
Q: Yes or no?
A: I remember the police sending to Mr. Ketabchi, but--
Q: Yes or no, Please.
The Court: Do you know how long he was away?
The Witness: No, I don't remember.
Q. Ms. Shoughi, did you ever go with your mother to any of the doctors that treated her?
A: With her.
Q. Yes.
A: No.
Q: Did you mother ever, to your knowledge, report to any of the doctors that she went to, that she was bruised, or beaten, or had scars?
A: I don't know.
Q: Yes or no.
A. I don't know .Mr. Dweck. Okay.
No question.
The Court: Do you have anything?
Q: When you went to the police with your mother in February,

of 2005, were you given a form or a document by the police?
A: I remember that, in 2005, right.
A. I remember my mom talked to a lady up there, and then--
Q: Do you know what date is on it?
A: February 16th.
Q: February 16th 2005?
A: Yes.
Mr. Zilberg: I'll just try on more time.
The Court: try one more time.
Q: Seeing this document that is dated February 16th 2005, does this document refresh your recollection, does it make you remember that you and your mother want to the police?
A: Yes--on February 16th 2005.
The Court: Do you have a copy of that.
Mr. Zilberg: It was submitted.
The Court: Yeah, but--
Mr. Zilberg: It is exhibit 18 in our binder, but here, Judge.
The Court: Yeah.
Q: On January 25th 2005, after your--after you saw the condition of your mother and after your mother confided in you that she had been reaped, why did you not get involved, why did you not have her go to the police, go to a hospital, go to a doctor, why--
Mr. Dweck: Objection.
The Court: Well, sustained. You have to rephrase the question as to what happened after that. We need to know factually that these things that you are saying did or did not happen.
Mr. Zilberg: Well, all of those things were brought out on cross, which is why I didn't--
The Court: I'm not so sure.
Mr. Zilberg: Okay. Okay.
Q: After your mother told you that she was raped, did you take her to a hospital, or did you take her to a hospital, or did you insist tha she go to a hospital?
A: My--I actually told her, you know, go to the hospital, but she was scared because Mr. Keatabchi-
The Witness: Your honor, Mr. Ketabchi always harass my

mom and us--

The Court: He asked you if you old her to go to the hospital.

Q: Ms. Shoughi, over here.

A: I told her, but she was so scared of Mr. Ketabchi, my mom, that's right, she had a--

The Court: So the answer is, no, or yes.

The Witness: No. I encouraged her, but she was so scared she was very much scared.

Q: On January 25, when your mother told you that she was raped, why didn't you call the police?

A: Because, in January--because, you know what, it is like sort of we were all scared by the time that--I sat down, I talked to my mom, I said, you know, you are raped, you are being constantly being raped by Mr. Ketabchi. We were harassed by Mr. Ketabchi, constantly. We--my mom-my sister got insomnia because always harassing, Mr. Ketabchi.

The Court: I got it. So you were too afraid to call the police. Is that the answer?

The Witness: Yes. Finally, in February, we went to like file.

The Court: Okay, go ahead.

Mr. Zilberg: Nothing further.

The Court: Anything else?

The Witness: Your honor, I want to say something, too--

The Court: we don't --

The Deputy Clerk: hold on, ma'am.

The Witness: Your honor--

The Court: We don't need another statement at this time.

Mr. Dweck: Just a couple of questions, your honor.

Recross Examination by Mr. Dweck:

Q: Ms. Shoughi, do you see here were the police filled in the date of the occurrence of February 16, 2005?

A: Yes.

Q: That's not when the rape occurred, was it?

A: No. It was in January 25th.

Q: And so you are telling me that police person put the wrong date in?

A: No, that's a correct date. It took us a little while to go to the police because my mom was scared. As you know--
Q: Ms. Shoughi, please
January 25, Mr. Ketabchi--
Q: Ms. Shoughi, please, we can't both talk at the same time.
The Witness: Mr. Ketabchi attempted to rape me, your honor.
Q: Ms. Shoughi, please, Isn' it a fact that Mr. Ketabchi was in Dubai on February 6, 2005?
A: Correct. Because, that's why we made--
The Court: All right. She doesn't understand the question. I think we could move along.
Mr. Dweck: I'll leave it, Judge.
The Court: Okay. Thanks very much. Could we have the next witness, please. Thank you.
The Deputy Clerk: You're, excused ma'am. Thank you.(Witness excused)
The Court: Who is the next witness, counsel.
The Deputy Clerk: Thank you, ma'am.
Mr. Zilberg: I'll go get her.
(Recess)
Irman Shoughi, Called as a witness by the defendant, having been duly sworn, testified as follows: Cross Examination
By Mr Dweck:
The Deputy Clerk: Thank you, ma'am, you may be seated. Try to speak into the microphone so everyone can hear you.
The Witness: Sure.
The Deputy Clerk: Thank you.
By Mr. Dweck:
Q: I'm just going to ask you some questions. If you don't understand my questions, just tell me, and I'll try to rephrase it, okay?
A: Yes, sir.
Q: Ms. Shoughi, I want to show you this piece of paper.
Mr. Dweck: May I approach, your honor.
The Court: Yes.

Q: Is that your signature?
A: Yes, sir.
Q: And is this in your handwriting?
A: Yes, sir.
Q: And do you remember signing this piece of paper back in December of 2005?
A: Yes, sir.
Q: And who prepared what is in here for you to sign?
A: The lawyer. And, I also.
Q: And did Mr. Irani tell what you to put in this paper that you signed?
A: No.
Q: You put it in on you own?
A: It's my own work.
Q: And Ms. Shoughi, when you wrote this piece of paper, you wrote down that the date that you mother was reped was January 27 2005. Do you see that?
A: Let me tell you something--
Q: Please, do you see that here, January 27?
A: Yes
Q: Did you write that in your own handwriting?
A: I am not sure about that. I said one day--
Q: No, my question is, did you write that in your own handwriting?
A. It's my own handwriting, yeah, it is
Q: And on here you say, I, on January 27, 2005, when I went home to have dinner with my mom, my sister, and Homayoun, as soon as I entered home, I saw my mom. It looked like she cried a lot and beaten up.
A: Exactly
Q: Do you know that your mother signed a paper in this case last month that she said that she cleaned herself up before you came home. Were you aware of that?
A: I don't know--
Q: Just yes or.
A: I don't know about that.

Q: Your mother made a statement and said--
A: Sir, you are insisting on something that I don't know about.
Q: Please, just hear me. You have to wait--
The Court: All right. Just let him ask his question.
Q: You have to wait for me to ask you a question.
A: Well, you don't let me to talk at all.
Q: Well, I ask the questions, you gibe the answers.
A: I like to give the answer that I--
Q: Now, Ms. Shoughi, this is statement that was by your mother. She says here: After he raped me on January 25th 2005, I cleaned myself up before my daughters arrived at my home. Were you aware that your mother made that statements? Yes or no?
A: Yes.
Q: Were you aware that your mother made that statement and swore to it?
A: Yes, sir.
Q: And are you telling me that the statement that your mother made here was false?
A: I mean everything is true--
Q: Yes or no.
A:--everything that my mom said is true. As I said--
Q: So your mother cleaned her--
A:--Mr. --
The Court : Wait, wait, let her finish the answer.
A: Mr. Ketabchi was there one night before he leaves to Dubai.
So I don't know about the date, sir, so date, exactly, we don't have calender at home, we track. But I know exactly was one night before Dubai. So, I'm sure about that.
The Court: All right, thank you.
The Court:--all right we got it.
The Witness: Thanks, your honor.
Q: But when you signed this paper back in you didn't say that on this paper, did you?
A: I was not sure about the date.
Q: You didn't say that on this paper, did you--

A. I don't know about the law and regulation, but I said whatever I--I believed, id true.
Q: Now, Ms. Shoughi, you signed another affidavit in this case, last month; is that right?
A: Would you please repeat the question. I really appreciate it.
Q: Is this your signature?
A. Yes, exactly, sir.
Q And did you answer, to what is in this piece of paper, before a notary public?
A: Yes, I-
Q: And who prepared this for you.
A: I cooperated with the lawyer.
Q: But the lawyer prepared it, isn't that right?
A: It's my work.
Q: Did you type this up yourself?
A: No.
Q: The lawyer typed it up?
A: Yeah, exactly.
Q: Okay, and you told the lawyer what to say, is that right?
A: Exactly.
Q: And when you wrote down here that your mother called you on January 25, 2005, you gave the lawyer the date, is that right?
A: I believe one day before he leaves to Dubai. I told you repeatedly.
Q: Do you see here, it says, paragraph 5, let me read it to you: I was at Citi Group Center, Barnes and noble--
A: Exactly.
Q: --on the evening of January 25 2005
A: Yes, sir.
A: And I said one night before he leaves to Dubai, sir.
The Court: I get it, I get the issue.
By Mr. Dweck:
Q: And when you told the lawyer that you notived that your mother looked disheveled and disoriented--
A: Exactly.
Q: --her hair was a mess?

A: Right, sir.
Q: Well, that's not the same as what your mother said in her affidavit, that she cleaned herself up, is it?
Mr. Zilberg: Objection.
The Court: Overruled.
A: She looked disoriented. No matter how much she cleaned up, she was disoriented. She was a mess. I cannot lie about that. She was not the same.
Mr. Zilberg: Objection.
By Mr. Dweck:
Q: Your mother did clean up, is that right?
A: It doesn't matter if she cleaned up or not. She was disoriented. I know my mother for so long, I know when she is disoriented, and I know when she doesn't look right, sir. I knew she was raped, I know she was really disoriented--
Q: You didn't see her get raped, did you?
A:--and the hair was messed--
Q: You didn't see her get raped, did you?
A: She said it to me.
Q: You didn't see her get raped, did you ?
A: Sir, I was--
Q: Yes or no. Please.
A: I wasn't' there but--
Q: Did you see your mother get raped, did you?
A: --She explained it for me.
Q: Did you see your mother get raped, yes or no.
A: So many times I saw Mr. Ketabchi abusing
Q: Yes or no.
The Court: You have to answer this question.
A: No. I was not in the room with her, no.
Q: Did you tell the lawyer, when you signed this paper, that you had signed another paper where the date was different? Did you tell that to Mr.--
A: I told you, sir, one night before he leaves to Dubai, I'm not lying, Okay. I am not lying.
The Court: You need to get to the plaintiff and defendant in the

case. That's really--you know, we've got people who don't have direct knowledge of what happened.
Mr. Dweck: Very well, your honor. No questions.
The Court: Thank you very much.
The Witness: Thank you so much.
The Court: Okay. Can we have the plaintiff.
Ms. Bahrami: Yes, Judge
(Witness excused)
The Deputy Clerk: Ma'am, If you could step up to the chair and remain standing for a moment, and raise your right hand.
Irandokht Bahrami, called as witness by the defendant, having been duly sworn, testify as follows: Cross-Examination
By Mr. Dweck:
The Witness: I swear to God, I'm going to tell the truth. For 16 years.
The Deputy Clerk: Okay, you may have a seat, please. Thank you.
The Witness: Thank you.
Mr. Zilberg: Judge, we have a Persian interpreter for the plaintiff. She was deposed through and interpreter, as well.
The Court: Do you want an interpreter?
The Witness: Yes. Please.
The Deputy Clerk: Sir, if you can raise your right hand, please.(Mamad Shirazi, Persian and Farsi interpreter, sworn)
The Court: Do you need him to interpret the question, or the answers, or both
The Witness: Yes, you interpret the questions for me, then I answer through you , and you translate the answer.
The Court: Okay.
The Witness. Thank you.
Mr. Dweck: Thank you ,your honor.
By MR. Dweck:
Q. Ms. Bahrami, is your cell phone number (917) 225-0072?
A. Yes.
Q. And was that your cell phone number back in January 2005?
A. Yes.

Q. And is your home phone number (212) 319-4197?
A. yes.
Q. And was that your phone number back in January 2005, also?
A. Yes.
Q. And Ms. Bahrami, did you know the phone number of Mr. Ketabchi that time as (2010 818-0488?
A. Yes . And he did tell me, call me and make sure that I have left. And see who picks up the receiver.
The Court: He just asked about the number' If that was the number.
The Witness: Yes.
Q. And, Ms Bahrami, it's your claim that you were raped by Mr. Ketabchi on January 28th, 2005 as is set forth in the complaint?
A. Several times I said during the deposition that one day before he left the United States for Dubai. And he was there the whole day and night.
Mr. Dweck: move to strike on the ground it is not responsive, your honor.
The Court: Well, I --I understand where we are. I am going to to leave it on the record.
Mr. Dweck . Very approach the witness, your honor?
The Court: Yes .
Q. Ms. Bahrami, I want to show you the complaint that was filed on your behalf in this case, in this court.
A. Go ahead, please.
Q. And do you see, in paragraph I that it is your claim that you set forth a sexual assault out of unlawful rape on January -- on or about January 28, 2005. And I have underlined it in red. Do you see that?
The Court: He can't remember all of that , so -
Mr. Dweck: That was a yes or no question.
The Interpreter. I take notes.
Do you want me, your honor, to answer, or what was -The Court: was the question again?
Mr. Dweck: The question was --
Q. Do you see that in the complaint the date of The sexual

assault by unlawful rape was January 28, 2005.
Mr. Zilberg: Objection.
Q. Yes or no .
The Court. Objection.
Q. Yes or no.
The Court: Overruled.
Yes it has -- it's written there, but I said before, you are repeating yourself for your own reason
Q. And do you see in paragraph 13: It is alleged that on or about January 28th
2005, at approximately 5:00 p.m., Mr. Ketabchi came to visit you, and raped you at that time.
And I have underlined it in red.
A. It doesn't make a difference. The point is, that one day before he left for Dubai, he raped me. And you keep repeating the question.
Q. Is that date in the complaint the --
The Court: We'll take it as a yes, if it's in the complaint.
Mr. Dweck: Very well, your honor.
By Mr. Dweck:
Q. ms Bahrami, do you remember giving testimony in a deposition in this case, with your answers under oath?
A. That's right.
Q. And at the time you deposition, you swore to tell the truth, is that right?
A. That's right.
Q. And I'm reading from the deposition.
The Witness: your honor, I like you to hear the tape at a point, to see January 25, how he was --
The Court: You have to use the interpreter.
The Witness: -- late January, how he was treating me. Mr. Dweck. Your honor, there is no question pending. The interpreter: may I, your honor?
The Court: Sure.
A. Your honor, I want you to listen to the tape and find out how much he was threatening me, January, and like for months he

would not let me take a bath or shower.
Mr. Dweck: Move to strike.
The Court. Granted.
By Mr. Dweck:
Q. Now, Ms. Bâhrami, on page 6 of your deposition, this was asked of you.. And did you give this answer. Line 7:
Q. Ms. Bahrami, you have brought allegations against my client concerning an incident on January 28, 2005, is that correct?
Did you give that answer to that answer to that question ?
A. It doesn't make a difference. I said before that it was one day before the Dubai. And you keep repeating yourself. Nothing changes.
Q. My question is did you give that answer to that question.
The Court: we'll take this as yes.
Mr. Dweck: Your honor, what I would then request, respectfully, is that the deposition of the plaintiff be offered as an exhibit.
The Court: Any objection?
Mr. Zilberg: No objection.
Mr. Dweck: So I don't have to go into the various seven times.
Mr. Dweck: Very well, your honor.
Mr. Zilberg: Judge, I would only request that the defendant's deposition be removed in, as well, for use of--
The Court: Not at this time. Maybe when he is on the stand, you might bring that up.
Mr. Zilberg: Okay. Thank you, Judge.
Mr. Dweck: Your honor, I would offer to prove with the questioning that I'm about to put to the witness with respect to the date of the alleged rape, based upon the affidavit that she has submitted to this court in lieu of testimony, that the date now is the 25th of January.
The Court: Okay. We understand that there are records which indicate different dates; January 25, January 28 2005, from the same witness.
Mr. Dweck: Thank you, you honor.
The Court: Is that right, counsel?
Mr. Zilberg: Yes, your honor.

The Curt: That's not disputed.
By Mr. Dweck:
Q: Ms. Bahrami, on January 25th, did you call Mr. Ketabchi at his home at 5:25p.m. at (201) 818-0488?
A: I think Mr. Ketabchi used--I think Mr. Ketabchi used my telephone and called his own house. Was it 5:00 o'clock?
Q: Is your phone number, cell phone, (917) 225-0072, back on January 25th, 2005?
A: Yes. What time was it?
Q: At 4:59 p.m. did you call your daughter at (917)544-9257 from your cell phone?
A: He--I--I don't know whether I did, or Ketabchi did, himself, in order to ask them to bring--to bring lettuce home, because now it was his position that I have to make -prepare the food myself, and you have to bring fresh food from outside, because I think you're poisoning--I think he was putting poison in my food.
Q: My question is did you tell--
The Court: I think she said, to answer your question as to the call, that it was either she or her daughter. It was either--no, I'm sorry. It was your client who made call there to her daughter.
The Witness: As usual.
The Court: Is that correct?
The Witness: Yes; that's correct. Thank you, your honor.
By Mr. Dweck:
Q: Do you have a recollection, on January 25th at 5:25p.m. of speaking to Mr. Ketabchi at his home in Ramsey, New Jersey for 14 minutes on January 25, 2005?
A: No. He used it to call either his daughter, or his wife, the woman who is his wife now and used to be his maid. And at the time that he pushed her and she fell in a coma, the new she was her maid.
The Court: So we have, in the record, three different dates for the rape, January 25, January 27, January 28th.
A: I only agree to the fact that it was one day before he went to Dubai. I told that to Mr. Irani. I told Mr. Irani that it was late

January when he raped me. And it was between the date of January 25th and 28th. And that's the date he put in the papers.
The Court: Right. So my question is this--since 2005, have you or your daughters determined what date is actually was?
The Witness: We were trying crying so much at the time, and we were hiding from him. We were not sure whether he had left for Dubai or not. I called down stairs to Mr. Fredo and asked him not to let him in anymore.
(In English) **Objection, not Mr. Fredo. I called**--(Through the interpreter) **I called another doorman of our building. His name is Sam. And I told him if that man comes, there, don't let him in anymore.**
The Court: But that was--my question is, since that time, have you or your daughters made any determination of what date you were raped?
The Witness: I have not discussed this with them too much but, **I, myself, have reached the conclusion that the day when he went to Dubai, one day before that, it was the 25th.**
The Court: So the raped happened in January 25, is that correct?
The Witness: Yes.
Q: And was there also a call made to Mr. Ketabchi's office on January 25th, at 3:27p.m. from your landline at home?
The Interpreter: I'm sorry, you said, counselor, 3:27p.m.
Mr. Dweck: 3:27p.m.
A: All of the --whatever telephones there are, he made those phone calls. He constantly used my telephone. He used my telephone constantly to call his house, his place of work, and his children.
Q: Is it your testimony, also, that at 8:40p.m. on January 25th, a call. That was made from your cell phone to Mr. Ketabchi's business?
A: (In English) He called. He did. He was always--because he was--he was--his telephones calls, he used my telephone, because he was Verizon. He said my telephone is AT&T, he count by minutes. They use my telephone which is my cell

phone or home telephone number 856. It is all his telephone calls.

Q: Ms. Bahrami, do you have a step son named Ross?

A: Yes.

Q: And is your step son's telephone number 917-679-0013?

A: Maybe. If it in my phone, maybe.

A: No, but I have it--I can--I have it on my telephone. **Can--I can look it up.**

Q: Did you verify--did you call your step son at 7:37p.m. on January 25th, at the phone number 91-679-0013?

A: Maybe I did call--maybe I called after. I have to look it up to make sure that I did, because there might be a lot of lies there, like the name of doctors that you mentioned. A lot of them were lies.

Q: Did you also call your step son at 7:43p.m. at 212--I'm sorry at--

A: No(In English)

Q: (917)679-3013. I'm sorry, at 8:06p.m. Did you call your step son, on the same day, January 25th?

Q: Did you also call your daughter at 3:35p.m. from your home phone, at 917-544-9257?

A: I don't know whether he called--I--either he called or I called, I don't remember. Because he was asking for Italian bread. We usually use pita bread, but he wanted Italian bread.

Q: Did you call your daughter again at 3:36p.m. at the same phone number on the same day?

A: Maybe I keep calling, they were not--maybe I called and they were not responding, and I kept calling them. Maybe I called them to ask them to come later, or to come sooner, because--or to do some shopping before coming. Because Ketabchi wanted to see--was insisting to see--Ketabchi was insisting to see my daughter. **He attempted to rape my daughter, Atosa Shoughi, In January.**

Q: Ms. Bahrami, wasn't this at the time you claim the rape was taking place?

A: I'm not talking about that. A few days before--a few days

before--
The Court: he is talking about January 25th.
A. That's the day he raped me. He was there from morning till night. (In English) Excuse me, sir. You are assuming that none of them was there.
(Through the interpreter)
Neither of the doctors--
The Interpreter: May I, your honor?
Neither of the doctors you mentioned before, neither of the doctors you mentioned before I heard of them. They were all lies. And the fact my breasts be removed, both of my breasts being removed, was also a lie.
By Mr. Dweck:
Q: Ms. Bahrami, I show you this piece of paper which has been remarked as defendant's exhibit 7.
Q: Did you write this letter to Dr. Surur?
A: Never. Never. You probably wrote it yourself.
Q: I'm Sorry. You think I wrote it?
A: (In English) Maybe. Maybe. I don't know who write it. It is not my handwriting. Not mine.
Q: Did you sign that letter Irene Bahrami?
A: (In English) That's okay. Everything. Everybody can--he signed my --
(Through the interpreter) He had forged--he had forged my signature and sent it to Dr. Akavan. You do all these things yourselves.
The Court: So this is not your letter?
The Witness: No. No, it's not mine. I'm a victim of rape, he has been raping me for 16 years.
The Court: I'm sorry, I can't hear you.
The Witness: I'm a victim of rape. He has been raping me for 16 years. And he kept telling me I will kill you, I will kill you.
The Court: Okay. That's enough. That's enough. Go ahead.
By Mr. Dweck:
Q: Did you see Dr. Surur on July 5th, 2000,and complain that you had urinary incontinence; that you could not hold your urine.

A: Mr. Ketabchi told me that you have to go and talk to him. Because he likes young men, he doesn't like women. He said go to him and ask him to make you like look like a man, to remove your breasts and, also, to make your Vagina to look like the buttocks.
The Witness: we have tape. As evidence(in English).
The Court: You went to the doctor on that day. Did you go to the doctor on that day?
The Court: Did you go to Dr. Surur.
The Witness: It was a doctor, Gynecologist. When first got HPV from him, I went to him, He was doing biopsy for--I--I saw him once. And the next week he did the biopsy from my behind.
The Court: So the answer is, yes, she saw him once.
Q: Did you tell Dr. Surur to submit a paper to the insurance company that you did not have any urinary incontinence so that you could collect from the insurance company for the surgery?
A: No, I told him--he said that who is it that has made you so crazy. Who is the person who has turned you so crazy. You have no problem, you are a very healthy woman. What deal did you make with Dr. Surur that now you bring all of these lies up.
Q: Did Dr Surur refuse to submit any papers to the insurance company for the surgery that you wanted?
A: This is the paper--this is the paper--this is the paper that--I don't know, whatever wrote it falsely, maybe that's the paper. But Dr. Surur is not a AP surgeon, he doesn't do such a surgery.
Q: Do you know how it come to be that Dr. Surur wrote that you are lying in order to get an AP repair?
Mr. Zilberg: Objection.
A: No, maybe he gave--maybe he said something--maybe he sent some papers to dr. Surur. He threatened him with something and he wrote up something like that. Otherwise, I have a very good relationship with Dr. Surur. I don't have a problem with him.
Q: Now, Ms. Bahrami, you suffer from asthma, don't you.
A: Very little. I use the spray, very little, maybe three times a year. I only use the spray three times a year. But, when he was

beating me up, yes.
Q. And you keep two Oxygen tanks in your apartment, do you not?
A: What's your--what is the proof you have to--bring it and show it to me (Whatever the rapist says, it's a lie, you shouldn't really believe him.
Q: Did you tell Dr. Surur that you are suffering from severe depression because of the murder of your sister?
A: My sister was not murdered, she was drowned. She drowned. And I never had a sister who --I didn't have a sister who died 27 years ago. I only had four sisters, and we are very well known family in Iran.
The Witness: (In English) And United, really.
Q: Isn't it a fact, Ms. Bahrami, that you have suffered from spurts or leakage of urine all your life?
A: No.
The Witness: Your honor, I was very healthy. I was very healthy, he could take me around for hours and hours without me needing to go to the bathroom. But he sent me to this doctor. He said you have to go to take your nipples out so that you would look like a man. Otherwise, I would kill you.
(In English)Objection.
(Through the interpreter)He likes--his breasts are very sensitive. He likes them to be chewed on when he is having sex. So that's why he wanted me to look like a man and to have sex with him like--like when I look like a man.
(In English) or otherwise, two men had to be in room, but I never let him
Q: Ms. Bahrami, I'm going to show you this piece of paper and ask you, question seven, whole my life. Is that your handwriting?
A: No. And (In English) and this is not mine, also.
Q: On April 13th, 1999, did you fill out this incontinence questionnaire for Dr. Surur?
A: A: I don't remember such a thing. I'm sure they were making a deal together, the first time--the first time he took--the first

time he took me to his father's house, to me, first, we have the business relationship, to the --for two years. After two years, he took me there to show me his house and he raped me for the first time over there.
The Court: Did you ever have consensual sexual relations with Mr. Ketabchi?
Mr. Dweck: That was my next question.
By Mr. Dweck:
Q: Ms. Bahrami, did you ever have--
The Court: my question first.
Mr. Dweck: That is your question first.
The Court: Okay.
The Witness: No, he kept--he kept. No. No, he kept threatening me that he is going to kill me, gonna kill my children, he is going send drugs to my house and then call the police.
Q: So is it your testimony, Ms. Bahrami, that you never had consensual sex with Mr. Ketabchi in the 16 years that you had a relationship with him.
A: He always said on--I also said it on the tape, that I always hated him. And he won't --even before, when he went to sell his father's house because of the money that--that he owed, what woman would lobe a man who has raped her. I have that before. Also--
Q: My question, Ms. Bahrami, is--
The Court: I think the answer is no--
Mr. Dweck: I was just going to repeat the question.
The Court: --but go ahead.
Mr. Dweck: If you're satisfied.
The Court: Well, no, I think we should make it clear.
Ms. Bahrami, I just want to be clear in my mind. In the 16 years that you had dealings with Mr. Ketabchi, you never had consensual sex with him, is that correct?
A: Yes, he wouldn't even let me take a shower, until there were lice in my--if I didn't take showers, there would be lice in my hair. He would smell my hair to see whether I have taken a shower or not, and he, for months, he would imprison me. I had

no choice.
BY Mr. Dweck:
Q: Now, Ms. Bahrami, did you ever receive any gifts from Mr Ketabchi?
A: He gave me--he kept giving me--wedding ring And he kept telling me if you don't wear it, I'm going to--I'll cut off your finger.
(In English) I swear to God.
(Through the interpreter) And he would see me in the street not wearing it. He said you have tell everyone that you are my wife.
Q: Besides the ring, did he ever gice you any money, any other gifts?
A: Whenever--whenever he wanted to travel, he would force me to use my credit card and to get money for him. Even the last time he was so angry why I wouldn't go and get--use my American Express to--get cash--get some money for him. Even the last time, he would return basically the money that he thinks that I had with my credit card. Either I would get this cash, or he would use them to buy some souvenirs and take it back to Iran. And then when it was too much, too difficult for him to return them, that's how he returned them.
The Court: Let's move to another topic.
Mr. Dweck: Your honor, would you bear with me with two questions with regard to this subject?
The Court: I think she said the answer was no.
Q: Did Mr. Ketabchi ever give her any money?
The Witness: He has not even paid me the moneys that he got from me yet, completely.
Mr. Zilberg: I believe that she did receive payments from him, just not for the full amount that she gave him or that he owed her, I think, is the--
The Interpreter: Is that also the question, or do you want me to repeat it?
Q: I want to show Ms. Bahrami, do you see this deposit slip. Mr Ketabchi put $17,800 in your account, yes?
A: He speak, said--later, he said you can --if I'm mistaken about

that, you can ask the bank about it. He said that he could later on take like--withdraw it ten by ten so that I could use it, and the tax department would not find out about it. And the bank would not ask why do you make so much money.
(Through the interpreter) Your honor, I want to talk about myself to you later on after this, because I want you to know about the 16 years that I was isolated in my room, also, I wanted the rape of Mr. Ketabchi to be played, also, with his voice on the tape.
The Court: Go ahead. You got any more questions?
Mr. Dweck: No, your honor.
The Court: No. Any redirect?
Mr. Zilberg: No questions, your honor.
The Court: Okay, thank you very much.
The Witness: --16 years of my life--
The Deputy Clerk: Ma'ma, you may step down. Thank you.
The Court: No more. So maybe we could have your client get right to the point.
The Deputy Clerk: Remain standing for a moment please. Raise your right hand.
(Defendant Sworn)
The Deputy Clerk: Thank you, sir, you may be seated.
MOHAMMAD ALI S. KETABCHI, called as witness by the plaintiff, having been duly sworn, testified as follows: Cross-Examination
By Mr. Certain:
Q: Mr. Ketabchi, you have used multiple names, haven't you?
A: Multiple names?
Q: Yes, you have used multiple names, correct?
A: No, I'm --
Q: Well, you have also used--you have used different spellings of your names for different purposes, is that correct?
A: No.
Q: And, what is that --the proper spelling of your first name, Mr. Ketabchi?
A: MOHAMMAD ALI.

Q: And what is the proper spelling of your last name.
A: My last name is Sadat Ketabchi, but everybody using Sadat as the middle name, and I'm using it as middle name. And everywhere I'm going, they using usually use as a middle name.
Q: And the proper spelling your last name is KETABCHI, KETABCHI?
A: Chi, yes.
Q: And that's the name you used when you registered a corporate entity called World Nuts 1390 3rd Avenue, correct?
A: Should be, yes.
The Court: hold on, one second. The interpreter is leaving. Do we need the interpreter for anything else?
Mr. Dweck: We don't, your honor.
Mr. Zilberg: No.
The Court: Thanks very much.
The Interpreter: Okay.
By Mr. Certain:
Q: And you have a business entity called World Nuts and Chocolates, 2578 Broadway Corp. Correct?
A: No. At the moment, no.
Q: Well, you formed that entity back in January 27th, of 1992, correct?
A: 1992--'72?
Q: January 27 of 1992, you formed an entity called?
A: Yes, I used to have a corporation, not anymore.
Q: And at that time you used a different spelling of your name, isn't that correct?
A: I'm not aware of it.
Q: At the time you used the name KETABARI, K-E-T-A-B-A-R-I?
A: I don't recall that.
Q: Perhaps this might refresh your recollection.
Mr. Certain: Permission to approach, you honor.
The Court: Sure.
By Mr. Certain:
Q: Are you familiar with that entity, World of Nuts and

Chocolates, 2578 Broadway Corporation. Are you familiar with that entity?

A: I know the corporation. But the name you are using

Q: Is that you--is that your--

Mr. Dweck: Your honor, the witness has not finished his answer, judge.

Mr. Certain: I asked him if he is familiar with the entity. He said yes.

The Court: Okay. And now your question is what?

Q: And this is an entity that was formed on your behalf, correct?

The Court: He is saying did you use another name.

The Witness: No, I haven't.

The Court: No?

A: No, I haven't. Maybe they made a mistake, but I don't --

Q: But according to this corporate registration with the New York State Department of State, it contains a spelling of your name that isn't your spelling, correct?

A: It is not my spelling, Ketabchi is my spelling.

Q: And it's your testimony that you didn't provide them with that spelling, is that your testimony?

A: This is --as far as I know, my spelling always is Ketabchi. And people--I really don't know what's the --I could find out, if you want me to see what's going on, see what's happened.

Q: Do you have a corporate entity known as World of Nuts of 61st Street and Second Avenue, inc.

A: Sixty-first?

Q: and Second Avenue, Inc.

A: No. At the moment, I don't have. These are all old corporations I used to have. I don't have it at the moment. These are--

Q: But you did--but you did file for a corporate registration for and entity called World of Nuts of 61st Street and Second Avenue, Inc. On July 29th of 1991 isn't that Correct.

A: To my recollection--I don't recall it, but it might be the same, yes.

Q: And, well--

Mr. Certain: Permission to approach, your honor?
The Court: Sure.
Q: Now, isn't it true that when you formed the corporate entity, World of Nuts of 61st Street and Second Avenue, Inc. You used the name, ALI, S period, Ketabchi. Correct?
A: I don't recall it, actually. The person who is --you know, register my corporation, he does this, but I don't recall it, what it is. But all of the following I am having is Mohammed Ali S. Ketabchi, or is under the corporation name. Just I'm using as an officer or something, I'm not--or maybe my son.
Q: On those records that are in front of you, you have used different names, and you're listed as the chairman or chief executive officer, correct?
A: I don't recall it at the moment.
Q: Well--well, does it refresh your recollection--
The Court: He doesn't recall it. We'll look at the exhibits at the appropriate time
Mr. Certain: your honor I would ask that you take judicial notice of this, given this information that is available.
The Court: I'll look at it at the appropriate time.
Mr. Certain: Okay. Your honor, I ask that that entire deposition transcript of the defendant be entered into evidence for the purposes of the submissions.
Mr. Dweck: Your honor, I have to object to that, because half of the deposition was the sub pro that was--that was conducted without any explanation whatsoever. Half of it addresses the subject matter of this lawsuit, but the bulk of it does not
The Court: well, I'm going to focus on your post trail submissions as annotated to the record. So, I'm not going to read it in its entirety, I'm going to read those portions which you each cite in your post trial submissions as supportive of your respective positions.
Mr. Dweck: Very well, your honor.
The Court: So it could be part of the record if you like, but I'm not going to be responsible for its entire contents, only what you direct my attention to.

Mr. Dweck: understood, you honor. Thank you, judge.
By Mr. Certain:
Q: Now, Mr. Ketabchi, you social Security number is 142-68 6344.
A: Yes.
Q: And you have also used the name of RETABCHI, isn't that correct?
A: I never used that--I'm not aware of this.
Q: Isn't it true that you have used the name RETABCHE.Isn't that correct?
A: I'm not using that. Maybe that's a misspelling of my name somewhere, but I'm not using this name, anywhere.
Q: And isn't it true that you have also used the name of SKETABCHI?
A: No, no, S is my middle name. No. no, S is my middle name. Mohammad Ali S. Ketabchi. So probably put together or--went together--
Q: Well, have you ever put them together?
A. No, I mean I said probably went together, Sketabchi
Q: Well, have you ever put them together?
A: I usually put S--Mohammad Ali S.Ketabchi, or MASketabchi. If it's together, probably I didn't put the point in it; Sketabchi, you read it like that.
Q: Now, Mr. Ketabchi, on you drivers license, isn't it true that your drivers license doesn't even include your name Mohammad Ketabchi?
A: That's not my fault, my --I--went--
Q: well, the question is yes or no. Isn't it true that it doesn't?
The Witness: I could show my drivers license here to your honor. And you could have a look at it.
The Court: Shall I look at it?
Mr. Certain: Certainly, your honor.
The Witness: Because they didn't have--they put Mohammad up there, they didn't put it there, it's not my fault. But I give all my name to them
By Mr. Certain:

Q: Well, my question is, is your name on your driver's license?

Q: You have used a birth date of August of 1955, haven't you, Mr. Ketabchi.

A: Never. I don't recall anything like that.

Q: I am going to show you some records, and you can let me know whether they refresh your recollection as to some of the names and birth dates that you used on your social security number.

A: What is this, 501--Island Drive, is my address?

Q: These here are Mohammad Ketabchi. Social security. Up to here is my name Mohammad Ketabchi, social security number 142-68-6344. But here is different social security number which is I don't believe is mine. I don't know any of these addresses, as far as I recollect.

Q: Does that refresh your recollection as to how many different names are reported to be used under your name and social security?

Mr. Dweck: That's objected to, your honor.

Q: Well, now, you met my client, Ms. Bahrami, in her store; is that correct?

A: Yes, her store.

Q: And you had a business relationship with her. You were helping supply her store with goods, is that correct?

A: Once or twice she requested me to give some supplies.

Q: the question is that correct, yes or no.

A: Just two times, that is correct.

Q: And, at some point, you told Ms. Bahrami that there was a property in New Jersey that you wanted her to see?

A: No.

Q: Isn't that. Correct?

A: No.

Q: Did you ever take Ms. Bahrami to a home in New Jersey?

A: Yes.

Q: Under the pretense of showing her the property?

A: No property, no. We went for sex. For sex over there.

Q: So it's your testimony that you told her when you were

picking her up at her store, you were going to take her all of the way to New Jersey for the purposes of Sex?
A: Because we have no room. My father and mother used to live there, they were not at home. So I said we can use that place.
Q: So it's your testimony that while she was working
The Court: You said that.
Q: Oh So, she was working, you came and picked her up. You asked her to come with you to New Jersey. And it's your testimony that you told her that you were going to go to New Jersey and have sex?
A: Yes.
The Court: And was that agreed to by both of you, or--was that both of you were agreeing to that.
A: Yes. First time I went--we went to my parent's house. The first--we had sex, the first time.
Q: And that was approximately 15 years ago, isn't that correct?
A: Approximately. I would say 15.
Q: And after that encounter with her, you apologized to her, didn't you?
A: Apologized? No.
Q: Well, you're familiar with Persian culture, correct, Mr. Ketabchi?
A: I do.
Q: Okay. And being a rape victim is something that is embarrassing in Persian culture, is that right?
Mr. Dweck: Objection.
The Court: If you know.
A: In Iran, yes.
Q: So someone who was raised in Iran who is familiar with the culture in Iran, even though they came here, they amy still fell stigmatized by being a rape victim, isn't that correct.
Mr. Dweck: It's objected to.
The Court: Sustained.
Q: Now, at some point during what you described as your relationship with Ms. Bahrami, she had given you--

The Court: I'm not sure he described his relationship with Ms. Barhami.
Mr. Certain: Well, he said for--
The Court: You said.
Mr. Certain: He said he had a relationship for 16 years
The Court: Well, you want to make that clear on the record?
Q: You had a relationship of some type with Ms. Bahrami for a period of approximately 16 years; is that correct?
A: I --actually, first time, you said 15, now you said 16.
The Court: No. No.
A: Approximately 14 or 15 years, as I remember, I knew her.
The court: And was that a sexual relationship during that time?
By Mr. Certain:
The Witness: Sometimes.
The Court: Meaning some periods of that 14 or 16 years.
The witness: I mean I would say every--once or twice, a month, if I was in United States.
Ms. Bahrami: Objection. Every day he raped me, form morning, he was rape.
The Witness: Every day? Oh, my God.
By Mr. Certain:
Q: Now, this first encounter, going back approximately 15 years ago, at that time you were married, isn't that correct?
A: Yes.
Q: And, in fact, you were married up until February of 2003 when your wife had passed away?
A: February 14th, yes.
Q: That was not you first wife, was it. Didn't you have a wife before, that you had a son with?
A: --
Q: in you deposition and in you statement that constitutes your direct testimony, that you wee trapped and you were trying to get out of this relationship with Ms. Bahrami. Hasn't that been your testimony?
Mr. Dweck: Objection.
The court: I'll allow it. Is that true?

The Witness: Actually, after--around, I would say one or two years, then she started bothering me that I really wanted to get out.
Q: So about one or two years into this relationship, you wanted to get out.
Q: So it's fair to assume that people in your family knew about?
A: My brother--in our culture, also, you're talking about. My brother knows, but didn't let anybody knows. But if my, for instance my wife and children, was the problem. But brothers knew what they are doing. Obviously, they go our with the girls, they will come, they usually kept quiet and don't say anything.
Q: I understand that response, but--
A: Even here.
Q: --you were concerned that your wife and kids would find out that you were having an affair on the children's mother and on your wife, correct?
A: Yeah, it was very important to me, I didn't want them to know.
The Court. I think we're going to break here for lunch.
Mr. Certain: if I could finish one more question.
The court: We'll break right here, and pick up again at 2:00. Thanks.
(Luncheon recess)
The Deputy Clerk: Please rise.
The Court. Please be seated.
The deputy Clerk: Before we begin, I would like to remind you are still under oath.
The Witness: Thank you.
The Deputy Clerk: You may be seated.
The Witness. Yes.
By Mr. Certain:
Q: Mr. Ketabchi, when we left off, we were discussing how you felt trapped after approximately a year or two into your relationship with Mrs. Bahrami, correct?
A: Because, she usually asking me to come to see her and bothers me, where you go, what you do, who is that guy, who is

that girl, why she working with you, why she is not. And started making it, create problem for me. I was uncomfortable, actually. I was uncomfortable.

Q: And you previously indicated that she threatened to tell your wife and kids about your relationship?

A: Yes.

Q: And your wife had passed away in February of 2003?

A: Yes.

Q: And, yet, your relationship with Mrs. Bahrami continued at least until January of 2005, two years later, almost two years later; isn't that correct?

A: Yes, That's right.

Q: Now, would it be fair to describe your relationship with Mrs. Bahrami as a difficult relationship?

A: I would say it was difficult relationship.

Q: And you argued frequently?

A: Not actually argue, but she usually bothers me with this mater, you know.

Q: Well, did you find it necessary to yell at her with any frequency?

A: Not as far as I know.

Q: Well did you yell at her.

A: Maybe I yelled her.

Q: Did you used to call her names?

A: Sometimes. Maybe.

Q: Called her stupid?

A: It--it--might. I'm not sure, I don't recall it, I mean.

Q: Now, on January 28th of 2000--2005, you were in Dubai on that day, correct?

A: Yes.

Q: And on January 27 of 2005, you were also in Dubai?

A: No. Actually I was in --in Frankford. Then we left from Frankford on the way to Dubai.

Q: So you had left New York?

A: I'm not sure, late night, or sometimes.

Q: But on January 25th of 2005, you were in New York, isn't that

correct?
A: I was in--
Q: And on January 25 2005, you were with the plaintiff, Ms. Bahrami?
A: Never, no.
Q: Did you talk to her that day?
A: On the phone, yes--
Q: Now, you heard her daughters testify about you being over the house for dinner; is that correct?
A: It wasn't January 25.
Q: My question is, did you hear them?
A: Yeah, she said I was there on the 25th for dinner.
Q: And isn't it true that you saw Ms. Bahrami just before you left for this trip that eventually brought you to Dubai?
A: I recall few days before, I did.
Q: And you went to her apartment?
A: Yes.
Q: Would it be fair to describe you contact with Ms. Bahrami, in early January of 2005, a controlling?
A: No.
Q: Well, isn't it true that you told her what to wear?
A: Sometimes discuss what I am wearing--she wearing, this clothes is nice or not, I bought it, or things, I bought things.
Q: Isn't it true you told her what time she had to be home?
A: There's a reason for that. May I say?
The Court: The answer is, yes, to his question.
The Witness: Okay. The reason was--
The Court: No, he just wants to know, now, if you did. It's yes or no. Is that right?
A: Yes, it--
Q: It's a yes or no question.
A: Yes, I asked her to be before sunset at home, that's correct.
Q: And even if it was cloudy outside, it was darker, you still expected her to be home when it got dark?
A: When it wa dark, I asked her to be home.
The Witness: And may I answer why?

The Court: well, when your lawyer asks the questions--
The Witness: Sure, thank you
The Court: --Then.
The Witness: Sure.
Q: And is that correct?
A: That's correct, though, before sunset and darkness, I asked her to be home.
Q: And, in fact, you demanded her to be home before it got dark?
A: Because of her safety.
Q: And it's you testimony today that it was only because of her safety that you're demanded that?
A: Yes.
Q: That she be home before the sun would go down?
A: That's all, yes.
Q: What were you concerned that might happen to her if she came home after it got dark?
A: No, I should say this.
The Witness: Can I?
The Court: Yeah.
The Witness: About--I don't remember, two years ago, when -- one and half years ago. Between January 23 or something, 25, one day, I was at her home. And she came, so said I had a dream somebody killed me in--in New York City and darkness.
Mr. Certain: Your, I'm going to object as non responsive.
The Court: It is. I think it is.
Q: What were you afraid of? Meaning the witness?
Mr. Dweck: He didn't finish the answer, you honor.
The Witness: If you want the reason--
The Court: Yeah.
The Witness:--I tell you. Then--and I talked to her, those two daughters. And they decided, they don't let her be out of the --at dark, now, because she said dark, was be killed on 57 street, I saw, you know, my ghost, I'm dying. I said what you should do, because you believe in your dreaming, let's go you don't be home at darkness. Always try to be home before the darkness.

That's what her daughters told her and she asked me, always calling me, if I'm not coming at darkness, you talk to me and tell me. Honestly, something, whatever they want, you should be, because of her safety. I always talking to her, always I would say something to her every day, are you there. If you see, if you have any record, if you see, almost hundred times, I say don't be home before darkness, don't be home before darkness. If I was controlling to her, I would say, where you are during the day, why you--I ask where you are the whole day. All this I asking, please, be home before darkness, because of your dream. That's why I was doing it. That's all.

Q: So it's only because of her drem that you were required her to be home before it got dark--

A: Did you understood it to--

Q: --is that correct; yes or no?

A: Yes, yes.

Q: Now, in November of 1999, you went on a trip to London with Ms. Bahrami, is that correct?

A: That's correct.

Q: And you arrived at Heathrow Airport on November 11th of 1999.

A: Heathrow Airport, always. Going to London, Heathrow.

Q: However, your passport doesn't indicate that you traveled to Heathrow Airport on November 11th of 1999, because you traveled on your brother Ferdun's passport; isn't that correct?

A: Not at all.

Q: But doesn't--that travel does not appear on your passport, on your passport, does it?

A: Let me tell you a question.

Q: The question is, does it appear on your passport; yes or no?

A: They don't put the stamp on before when you go to Europe, because you are, you are a U.S. citizen. Sometimes they do, sometimes they don't.

Q: Okay.

A: And I can have my brother's passport, you see those if you

need it.
Q: And Ms. Bahrami was with you, and you went through customs at Heathrow too, isn't that correct?
A: Yes, we were together.
Mr. Certain: Ask if I can approach the witness.
The Court: I'm not sure I get the relevance, but-
The Witness: What is that?
Q: Do you know what that is?
A: November 1999. Yes.
Q: Okay, and that was the trip where you traveled with Ms. Bahrami, correct.
A: I went with Ms. Bahrami in London.
Q: Yeah, well, the question is, that stamp represents the trip that you took to Heathrow with Ms. Bahrami; yes or no?
A: Yes, I went.
The Witness: But may I answer you something?
The Court: Just answer his questions.
A: We went together to London.
The Court: Wait. That's all.
Q: Yeah?
A: Yes. We went.
Q: So you went through customs with Ms. Bahrami because you were traveling with her, correct? Correct.
A: We--we went to customs, but we didn't go to--
Q: And they stamped her passport, correct? But it's your testimony that they just didn't stamp yours?
A: I'm not sure it was mine or not. It's not my fault what immigration guy does it.
Q: Okay. Isn't it true that your brother lent you his passport so that you could travel under his identification?
A: Never, ever.
Q: Now, you direct testimony indicated that you had made payments to Ms. Bahrami?
A: Yes.
Q: And when she closed her business, her business had candy making equipment, correct?

A: She --when I met her, she had a candy store in downtown.
Q: And there was candy making supplies and equipment in that store?
A: No, no, she had a popcorn machine, which I brought it from her.
Q: And you brought other things from her, correct?
A: One popcorn machine, one small popcorn machine. And she sold one air conditioner to my brother-in-law.
Q: Well, you're aware that Ms. Barhami's position was that you received approximately $33,000 in goods from her store?
A: No, no at all.
Q: Not that you believe it, but you're aware that is her position-
A: It was $6,000, which I paid her cash, and I took the machine.
Q: Isn't it true that the 17,000 dollar check--
A: It means after 16 years, I pay her?
Q: Let me finish my question.
A: Okay, go ahead.
Q: Isn't true that 17,000 dollar check that your attorney showed my client, Ms. Bahrami, on the stand, is really partial payment for items that you had taken from her store when it closed?
A: Not at all, no, never.
Q: Now, I apologize for the next line of questioning, but given the nature of the case, I have no choice. But would it be fair to say that you have discussed some extreme sexual fantasies with Ms. Bahrmi?
Mr. Dweck: That's objected to, your honor.
The Court: I don't really know what the relevance of it is.
Mr. Certain: Your honor, it's very relevant.
The Court: Yeah, I'm trying to figure it out.
Mr. Certain: Shall we approach, or do you want to--
The Court: Well, I'll allow you a little latitude but, you know, there is only one issue here, really. And that is the issue about whether this assault occurred on January 25 or not. One side says it did, and one side said it doesn't. All of this other stuff is peripheral.

Mr. Certain: They raised an issue that I think, at the minimum, opened the door
The Court: go ahead. You have a little latitude, but if you don't deal with the issue I'm talking about, or if you deal with other issues, it is just--like I say, it is peripheral.
Mr. Certain: It is something that he opened the door to. They brought it up.
The Court: Well, what is the relevance of it?
Mr. Certain: Well, can I approach, your honor?
The Court: No, go ahead.
Mr. Certain: Okay.
Q: Now, let me show you what has been marked as defendant's exhibit 7.
Mr. Ketabchi, isn't it true that you provided that document to your counsel?
A: Never. I haven't seen this letter until now.
Q: And--
The Court: Did you write this document?
The Witness: No, sir.
Q: Isn't it true that you expressed concerns to Mrs. Bahrami that you were unsatisfied because her feminine parts were not tight for you?
Mr. Dweck: Objection.
The Court: Overruled.
A: Never.
Q: Isn't it true that you wanted her to have a procedure so that her Vagina would be tighter so you could experience more, sexually, when you were with her?
Mr. Dweck: That's objected to, your honor.
The Court: Overruled. No.
Q: Isn't it true that you related to her in conversations how much you enjoyed sex when the, whatever you were penetrating, was extremely tight?
Mr. Dweck: it's objected to, your honor.
The Court: I'll allow it.
Mr. Dweck: Judge, what does this have to--

The Court: I'll allow it.
A: Can I say something? It was tight enough--sorry about that--so I didn't have to ask her.
Q: Well, that's not the question, but I'll ask it another way.
A: No, I didn't understand--
The Court: No, but it gets to the point.
A: it gets to the point.
Mr Certain: Okay.
Q: Well, you have heard tape-recorded conversations between yourself and Ms. Bahrami, correct?
Mr. Dweck: Objection.
A: I haven't heard--
The Court: I'll allow it.
Q: It's your testimony that you have not heard tape-recorded conversations between you and Ms. Bahrami?
A: I--I haven't.
Q: Well, didn't you testify in your deposition that she trapped you into having these conversations on the phone?
A: No. She told me I have a tape from you, and I'm going to go to court, I'm going to sue you, I'm going to do so many other things, destroy your life and everything; yes, she told me.
Mr. Certain: Your honor, I ask that tape two be played.
The Court: I don't need to ply it. For my benefit?
Mr. Certain: For the witness. He says he hasn't heard it.
The Court: Just ask him about it.
Mr. Certain: Okay.
Q: In what has been identified as tape two in plaintiff's exhibits, isn't it true that you--that you had a conversation with Ms. Bahrami on the phone where you discussed--
The Court: On what date?
Mr. Certain: The conversation indicates January-- excuse me, October 10th of 2005.
Mr. Dweck: It's after the fact, your honor.
Mr. Certain: Doesn't matter.
The Court: Go ahead, I'll allow your questions.
Q: Isn't it true that, in that tape, you discussed how pleasurable it

was to have anal sex with a man, because his anus was tight?
Mr. Dweck: That's objected to, your honor.
The Court: Sustained.
Q: Isn't it true that in that same conversation, you discussed having anal sex with--
Mr. Dweck: Objection.
The Court: Let him finish the question.
Mr. Certain: Let me finish the question.
Q:--with someone that you described as young boy?
Mr. Dweck: Objection.
The Court: Sustained.
Q: Isn't it also true that during your conversation on the telephone with Ms. Bahrami, she confronted you about having raped her at the New Jersey home after you went and prayed, and you, in response, thanked her and thanked God for not reporting you to the police?
Mr. Dweck: That's objected to, your honor.
A: No.
The Court: Are you talking about, what date?
Mr. Dweck: 1989, your honor.
The Court: What date are you talking about?
Mr. Certain: The conversation is from--
The Witness: No, no--
The Court: No, no--I'm talking about the episode.
Mr. Certain: It's the first encounter--
The Court: I'm asking you what date.
Mr. Certain: It's about 1989. However, he only referenced it earlier as a trip where they went to have consensual sex.
The Court: I heard that. Now you're talking about a tape from 2005 about an '89 episode?
Mr. Dweck: Objection.
The Court: Is that what you're doing?
Mr. Dweck: Objection.
Mr. Certain: But it's a credibility issue.
The Court: I don't really know what it has to do with the issue at hand here, but I'll allow it, you know.

By Mr. Certain:
Q: Do you remember having this conversation with Ms. Bahrami?
The Court: When?
Mr. Certain: Your honor, 2005.
The Court: When?
Mr. Certain: I believe it was February of 2005.
The Court: Go ahead.
Mr. Certain: This is tape one.
The Court: January 2005, tape one.
Q: Remember--woman: Remember, you wanted to show me a cheaper house. And I was very much afraid to get into the house with you. And I said, that I had to leave soon and go back to the store, at my store. Remember, I said today I have no employees. But Bahar, one of your employees who was working at 14th street then, I was afraid of you. You told me you need to go do your prayers, Naamas, on time. And I said, okay, then while you were doing prayers, I was thinking to myself and asked God for his forgiveness for that, I thought, you may be dangerous while you were so religious while you were so religious and doing prayers, Naamas. Man: Let's not talk about it now.
Woman: Now, let me tell you the rest, Homayoun.
A: I'm sorry. The first part of the--was the woman, or me?
Q: Well, your part was: Let's not talk about it now.
Woman: Now let me tell you the rest, Homayoun. While I was thinking that you were such a nice man while you were doing a prayer, Naamas, and I trusted you and respected you after your prayer. But you, after finished preying, you came up to me and said: Let me show you the other room, please. And I said, it's okay, it's already too late. I have to leave soom. But you insisted and said this house is very low prive. And I said, great, okay. And when you try to show me the other room, instead, you raped me. And after that, I really hated you. One night you took--
Mr. Dweck: Is this a question?
The Court: I think so.

A: --many times, but I don't pick up the phone. I all the time, run away from you. After that you said, I'm going to do my prayers, Naamas. I thought that you probably will rape someone after your prayers. Naamas. And you think it's very normal and nothing bad about it. Man· I remember. I talked to God, and thought with myself, and said to myself, Alahramdalelah. It's an Arabic word in English, which means thank God that she didn't make a problem, and didn't make it hard. Do you remember that conversation?
A: People and Ms. Bahrami. And the --on the --
Mr. Dweck: May I approach the witness, your honor?
The Court: Yes.
A:--and four of them is--
The Court: Mr. Ketabchi--
Mr. Dweck: I'm sorry, your honor.
The Court:--he was asking to show it to me, but I said it is for you.
The Witness: If you want me to read it for you, I am I?
The Court: No, no. He's going to ask you questions.
By Mr. Dweck:
Q: Mr. Ketabchi?
A: Yes.
Q: What time was your first call that morning on the 25th of January?
A: the time was 8:41.
Q: And was there a time during the course of the day when you made those 35 telephone calls, or received the 35 telephone calls, that you spoke to Ms. Bahrami?
A: Yes.
Q: When was that?
A: I get a call from Ms. Bahrami on 3: 27 , afternoon.
Q: And was there also a call that you made to her?
A: Yes.
Q: At 1:19 p.m.?
A: Yeah, 1:19. I believe.
Q: Call number 735?

A: 1:19. 1.19 afternoon?
Q: Yes, sir.
A: I don't see it, 1--that's the one, yes.
Q: Do you see that?
A: Yeah.
Q: How long did you speak to Ms. Bahrami at 1:19p.m.?
A: four minutes.
Q: And what number did you call her at?
A: 212-319-4197.
Q: And right. After that, you spoke to your daughter, is that correct?
A: Yes. That's my daughter number.
Q: And after that, you spoke to your son?
A: That's my son numbers.
Q: And after that, you spoke to your sister, is that correct?
A: That's right. Three minutes.
Q: And then at 3:27, call number 762?
A: Yes.
Q: Was that call from Ms. Bahrami?
A: 6:49.
Q: No, 3:27p.m.
A: 3.27. Yes. 3:27, Yes. Incoming call.
Q: Mr. Ketabchi, did you and I cross--check, according to plaintiff's landline that she called you at that time from her phone?
A: Yes.
Q: And then, after that, Mr. Ketabchi, there is 6:49--
Mr. Certain: Objection, your honor.
The Court: Overruled.
Mr. Certain: Your honor, this exceeds the scope.
The Court: Overruled.
Mr. Certain: I wanted to give--
The Court: Overruled.
Q: Did you also call her at 6:49p.m. call number 770, where it is the queens tower?
A: Yes. Actually, I called her for one minute on cellular phone.

Q: And then after that you, call her at home again, is that right, sir?

A: Yes.

Q: And you spoke to her for three minutes at 6:50p.m.?

A: I called her at cell phone, I believe she didn't answer, I believe, and I call home and talked to her daughter

Q: And that was for three minutes?

A: Yes.

Q: And is this the document that refreshes you that on January 25th you never saw Ms. Bahrami?

A: ---

The Court: No more questions.

Next witness: Doctor Berger.

Questioned by Mr. Zilberg:

Q: Psychoiagnostic test. That was two hours, at that time? That's the psycho diagnostic test, that was administered was the MCMI3?

A: Yes.

Q: Okay. And you're familiar with that test?

A: Yes

Q: You have used it previously?

A: Yes.

Q: Okay. And you decided to use it in this case because you felt that it would assist you in you're evaluation and diagnoses of Ms. Bahrami?

A: That it could be additional able information, and sometimes the test is to provide some additional insights. Other times not. It is a another piece of data that I wanted to try to have available to me.

Q: Okay, well you used two hours of the time that you spent with her out of a total of about six hours--

The Court: At a total of about eight hours.

Q: Out of a total of about eight hours was spent on this test, correct.

A: Yes.

Q: About a quarter of the time was spent on this particular test,

correct.
A: Yes.
Q. Okay.
A: Is that how it works out? Yes.
Q: And this test, the MCMI3 consists of 175 true and false questions, correct?
A: Yes.
Q: And the way the MCMi3 works, is that it is benchmarked to a normative sample, correct?
A: Yes.
Q: Okay. But that normative sample is not regular people off the street, it is the normative sample, within the MCMI, is actually psychiatric patients?
A: usually.
Q: Correct?
A: Usually individuals who are in some form of outpatient treatment, yes.
Q: So the MCMI benchmark that is used, are psychiatric patients, correct?
A: Yes.
Q: Okay. And part of that benchmark, is part of the group that comprise that benchmark, approximately 15 percent of those people--actually about 10 to 15 percent of those people that it is benchmarked on are prison inmates, correct?
A: That might be the case. I actually don't know the percentage of that.
Q: Okay. But all of these people who it's benchmarked on are Americans, isn't that correct?
A: Yes.
Q: People residing within the United States, correct?
A: individuals generally raised here, yes.
Q: Okay. Now, in administering such a test, culture is an important factor to consider, correct?
A: in interpreting the test, and how you use the findings, yes.
Q: For example, aside from Hispanics, the MCMI3 has not been validated as how the test accounts for other diverse

cultural groups, isn't that correct?
A: Yes. What it means this test does not have an accurate result for other people from other countries and culture, and this testing only was tested up to now on the patients who are American.

Q: For example, at least one study has found that the MCMI3 doesn't properly gauge answers of Koreans, because they tend to score higher on dependence scales, isn't that correct?
Mr. Dweck: Objection.
The Court: allow it.
Mr. Dweck: we're not dealing with Koreans, your honor.
A: I'm not familiar with the study, but I have no problem accepting that finding.
Q: Now, how was the test translated for Ms. Bahrami?
The Court: Was it done in English, the test?
A: Yes, the test in English written questions, and there was an interpreter available to assist Ms. Bahrami, if she had questions understanding any of the particular items, to assist in that regard?
Q: Now how many languages is the MCMI3 available in, in preprinted form?
A: The only know of English and Spanish. There might be others, but I'm not familiar.
Q: Okay, do you know that it is also, valve in French?
A: No, I don't --I wouldn't doubt that, but I don't know, I have never seen a French copy.
Q: And when you administered the test to Ms. Bahrami, what--what safeguards did you use in order to make sure that she properly understood the questions that were asked on the test.
A: Again, I had the interpreter available to her to answer questions. I could not, nor did I anticipate, a full range of safeguards. What I thought I would be able to achieve from the test was some sense of emotional and feeling states. And I did not think that the test itself would be my only source of information, nor would it be specifically diagnostic of a particular condition.

Q: Well, right now, I'm just talking about the test.
The Court: So was he.
Mr. Zilberg: Oh.
Q: How do you know that the questions on the test were properly translated for Ms. Bahrami?
A: I know that she read some of the questions herself and answered them. And I know what she had some questions for the interpreter. And she had asked me some questions. I cannot guarantee that she understood every question.
Q: You were not in the room for the time that she took the test, were you?
A: I was in and out of the room.
Q: She asked you some questions toward the end of the process, isn't that correct?
A: At some point during the process. It might have been toward the end, middle, I'm not sure.
Q: Okay.
A: I know there were some questions, but I can't guarantee--
Q: Okay.
A: --that she understood every single question.
Q: Okay. Have you ever heard of a method that is instituted called back translation?
A: No.
Q: Have you ever used a method where an interpreter interprets English into the foreign language and then a different interpreter interprets it back to English in order to test the accuracy of the translation?
Mr. Dweck: Objection.
The Court: I'll allow it.
A: No.
Q: have you ever utilized that?
A: No.
Q: Did you ever consider utilizing it in this case?
A: No.
Q: in order to properly utilize the result of this test that you administered, the MCMI3, would it be sufficient for Ms.

Bahrami to have some understanding of the questions being asked?
A: In order for it to have been useful at ll, yes.
Q: So, if she has some understanding of the questions, that is a sufficient standard for you to be able to utilize that test, or the results of that test?
A: if that was the initial question, then I didn't understand.
The Court: No, that was not the initial question.
Q: Okay--
The Court: Is that a new question?
Q: No, I thought maybe I misspoke.
The Court: No, you didn't ask that question. No.
Q: Okay. Is it sufficient for a patient to have some understanding of the questions being asked on--
The Court: Of course it is. And you did ask that question, and he answered it yes. And anybody would say yes, because the opposite is that the person had no understanding of the questions.
Mr. Zilberg: Well, no, the distinction that I'm drawing is between some understanding, and a significant degree of understanding, or full comprehension of what the questions were stating.
The Court. You didn't ask that question. If you want to frame a question around what level of understanding is necessary--
Mr. Zilberg: Okay.
The Court: --for the test to be valuable, that is a fair question.
Mr. Zilber: okay. Can you please answer the judge's question.
Mr. Dweck: Can I voice an objection to your question, most respectfully, you honor?
The Court: You can, but I'll overrule it, most respectfully.
A: The greater the understanding of the question, the more valid, likely, would be the answer to the question. And, ultimately, the interpretation of the test as a whole. The test generally requires a fifth to seventh grade reading level.
The Court: English reading level.
The Witness: English reading.

A: So you're not looking, already, at somebody who is--has ultimate sophisticated knowledge or understanding. Some of the questions are very basic.
The Court: For example what might be some of the questions?
The witness: I mean I have them here. A question might be: Do you feel blue or down, most of the day, every day; true or false.
The Court: I see.
Q: The level--the reading level of English that is generally recommended for somebody who takes this test is actually the eight grade level, isn't it?
A: Seventh grade, eleventh, I believe .
Q: and going back to my original question, which I don't believe was answered, is what level of English comprehension do you consider it necessary before that test is considered to be, or the results of the test, are considered to be useful?
A: It's a threshold question that I can't really answer, where night turns into day and day into night here, at what would it be sufficient. A person raised in this country, who speaks full English, but doesn't read through questions and just scans them, is not going to have a valid result either. The test, infact, takes into account whether or not the questions seem to be answered by their internal consistency across questions And when one looks at the questions, one generally gauges a sense of what level of credibility or validity existed. But, all--in all of that, there was--the test was just an additional item that might have helped. By no means was it an important part of my assessment, nor did I rely on it in any way for my ultimate opinion or conclusion, in this matter. It did not help and did it not, you know, diminish my understanding of the case. It supported me in certain areas, and it raised other questions.
Q: Dr. Berger, I would like to ask you--
Q: You gave a deposition in the case, right?
A: Yes.
Q: On March 22nd 2006?
A: I am not familiar with the date, I don't remember. But that sounds reason.

Q: And you testified under oath?
A: Yes.
Q: I would like to turn to page--
A: I don't have--I didn't bring the deposition with me, but I'll listen to the question.
Q: We are starting on page 27, line 23.
Mr. Dweck: Just give me a second.
Mr. Zilberg: Oh, okay.
Q: Actually, let me take that back. It's page 27, line 19.
Q: Mr. Dweck: Page?
Mr. Zilberg: Twenty-seven, line 19.
Q: If the patient does not read or write English or does not understand the question, I--how would he or she indicate the response on the form?
A: By circling true of false to the question.
Q: Yes, but what if she cannot read or understand the question?
A: that's what the interpreter was for.
Q: So who would mark the questions or the answers?
A: The patient would.
Q: Sir?
A: Well, the patient and the interpreter. If there is a
The Court: All right.
Mr. Zilberg: --of the question being asked, that the doctor at time of deposition considered to be sufficient.
The Court: Okay so.
Mr. Zilberg: Obviously, the point being, that some understanding of the question being asked, is not sufficient in order to--in order to utilize the results of --of psychological tests in order to later utilize those results in subsequently forming a psychological diagnosis.
The Court: Says you?
Mr. Zilberg: Right.
The Court: So. Okay, I got it. I know what your opinion is. I know what his opinion is.
Mr. Dweck: But you didn't hear the rest of the answer, your honor.

The Court: That's all right, I don't need to.
Mr. Dweck: All right.
By Mr. Zilberg:
Q: Now, the MCMI has a validity scale, right?
A: Yes.
Q: And the validity scale checks that the answers given by the patient are not random, right?
A: Well, it a little more that that. That they are not random is certainly one important part of it--
Q: Okay.
A: --and whether there seems the be a pattern of inconsistency or exaggeration.
Q: Well, I'm just talking about the validity scale, not the X, Y, Z validity scales?
A: That would be whether or not the person was actually just reading the questions, rather that just randomly answering them.
Q: Exactly, so the validity scale is to gauge against random answers?
A: Yes.
Q: then we get to the X, Y, Z, what are actually called validity scales, but are actually disclosure, desirability and debasement scales? Correct?
A: Yes.
Q: And in fact, none of those scales on this testing reached the critical point of 75 where some indication is given to a possible diagnosis or possible problem; isn't that correct?
A: That there was not indication that there lacked validity not was there indication or exaggeration.
Q: Right, exactly, thank you, Doctor. Now, this test was done in pencil, correct?
A: Yes.
Q: And then it was handed back to you, correct?
A: Yes.
Q: And a copy of the transcript was not given to Ms. Bahrami, correct?
A: Yes.

Q Okay.
A: A copy of that answer sheet?
Q. Yes.
A· Not on that date.
Q: Okay, so there is no way for anyone to know whether any of the answers on the Scantrom were changed or altered in any way after Ms. Bahrami left your office, correct?
A: There would be a way to infer from the answers that might have been erased, because you could see erasures, look at what the original answer was, and then look at what the change was. But, other that that, **there would be no scientific way to *determine that change were not made afterwards,*** *if that was* actually the bottom line of your question.

Q: I'm sorry. And in your affidavit, in lieu of direct testimony, you indicate that you utilized the DSM, the Diagnostic Statistical Manual in reaching your diagnoses, is that correct?
A: I used Diagnostic and Statistical Manual classifications. I didn't use the manual to reach the diagnoses.
Q: Okay.
Q: Are you familiar with the standards and requirements that the DSM sets forth for a diagnosis of dysthymic disorder?
A: For the most part of when--are you asking me for the --
Q: Yes.
A: One would have dysphonic or depressed most of the day most accountable to any other condition.

Q: Would you agree, Doctor, that according to the DSM IV, the --the first criteria for dysthymic disorder or a diagnosis of dysthymic disorder, is on the majority of days for two years of more, the patient reports depressed mood or appears depressed to others for most of the day?
A: That, I think, is what I said.
Q: But in your--you took approximately --you took 20 pages of notes while meeting with Ms. Bahrami, correct.
A: Yes.

Q: In your notes, does it indicate anywhere that Ms. Bahrami, for two years or more, reported depressed mood, or appeared depressed to others for most of the day on the majority of days?
A: To be more exact--I'll look at my notes I do recall the discussions with her describing depression for at least two years, if not more. Her diagnosis, descriptions of her lifestyle and how she felt as though she were in a cage and in a prison and as a slave
Q: I didn't see that being in a euphoric or euthymic mood would be consistent with descriptions of feeling that kind of way. I don't see where she says I was specifically depressed for two years.
Q: Okay. Not even her saying it. Are there any notes from you, in your notes you sometimes write your own opinions and findings, whether it be parenthetically or within the body of the pages, have you--are there any notes from you saying this patient for the past two years has been in a depressed mood or appears depressed to others most of the day, or on the majority of days.
A: That was my clinical impression.
Q: Okay.
A: I don't see it specifically in the notes there.
Q: Is there anywhere in your notes, sticking with dysthymic disorder, that during the two years period, the above symptoms are never absent longer than two consecutive months. Did you ever establish that, or make that finding during you're valuation?
A: During the course of the interview, I asked her about her mood and her feelings. I did not specifically put that in my notes, then that was an oversight.
Q: Next criteria for dysthymic disorder. During the first two years of the syndrome, during the first two years of this syndrome, the patient has not had a major depressive episode. Did you establish that?
A: I did not elicit signs or symptoms or past history of major depressive episodes, either from the medical records or from Ms. Barhami. Of course the interview with Ms. Bahrami was not well detailed in the history that she would provide to me, so

that it would not have been--it would have been difficult for me was in a cage?

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AUTOPSY REPORT
New 95-1600

Report of death by MILLARD J. HYLAND M.D., Medical Examiner.

Name of deceased: PARSTO NEWTON

Last known residence: 324 NORTH BROADWAY, YONKERS, N.Y.

Place of death: LAWRENCE HOSPITAL (DOA)

Age: 37 Sex: FEMALE

Race: WHITE

Date of death: JULY 14, 1995 10:35 p.m.

Time examiner notified: JULY 14, 1995 10:35 p.m.

Reported by: LIEUTNENT BONCI

Primary police agency: EASTCHESTER POLICE DEPARTMENT

I hereby certify that GERARD CATANESE,M.D. performed an autopsy (in the presence of MILLARD J. HYLAND, M.D. on the above named person at the medical Examiner's **Facility, Valhalla, N.Y.,** on the 15th day of July 1995, starting.

158

UNITED STATES OF AMERICA

Passport No:
093880130

Surname:
KETABCHI
Given name:
MOHAMMADALI SADAT
Nationality:
UNITED STATES OF AMERICA
Date of Birth:
06 JUN/JUN 47

Sex:	Place of Birth:
M	IRAN
Date of issue:	Date of Expiration:
24 MAY 97	**23 MAY 07**

Authority:
PASSPORT AGENCY
PHILADELPHIA

Amendments/modifications
SEP PAGE 24

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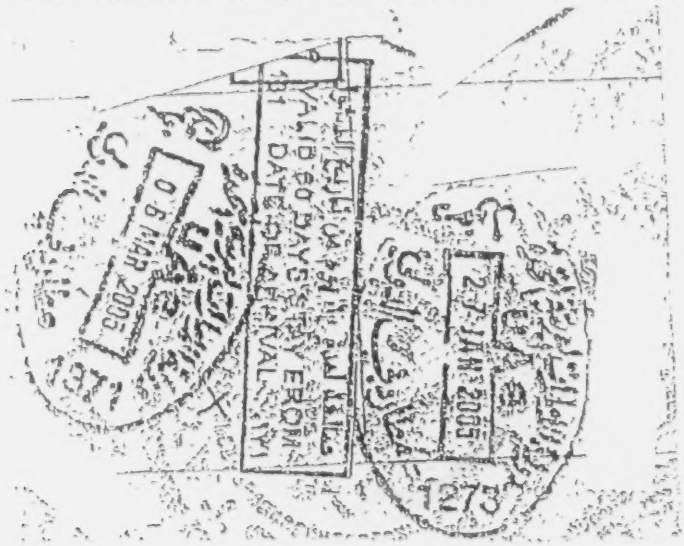


159

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IRENDOKHT BAHRAMI,
Plaintiff,

V.

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

Date Filed: 03/04/09

JUDGMENT

Whereas the above captioned action having come before this court, and the matter having come before the Honorable Richard M. Berman, United States District Judge, and the court on February 27, 2009 having rendered its Findings of Fact and Conclusion of Law directing the Clerk of the Court to enter judgment in favor of defendant, it is,

ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Findings of Fact and Conclusion of Law dated February 27 2009, judgment is entered in favor of the defendant; accordingly, the case is closed.

Dated: New York, New York
March 4, 2009

J. MICHAEL McMAHON

180

INCIDENT INFORMAITON SLIP

Po 301-164(Rev 3-98)-pent(RMU)

Date: **2/28/07**

Welcome to **017**(Command), **167 E 51 St. NY, NY**(Address), 212-826-3211(Telephone No.). We hope that your business with us was handled satisfactorily. Your particular matter has been assigned the following number(s):

Complaint Report No:----------Accident Report No:----------

----Aided Report No:--------Reported to: **P.O. Garofalo #2129**(Shield No), Date of Occurrence: **2/28/07**, Time: **0001**, Location of Occurrence: 400East 57 Street Apt **10B**,

Crime: **Aggr. Harass**.

Please, keep this report should you have to refer to this matter in the future. If you need any further assistance feel free to contact us at telephone number----------. Please let us know if you have any suggestions on how we can better serve you. As you may already know, we will provide you with a crime prevention survey of your residence of business. Please, ask for more information on this and other crime prevention initiatives. Our goal is to make you and your properly safe.

COURTESY-PROFESSIONALISM-RESPECT

REMEMBER: CALL 911 FOR EMERGENCIES ONLY!!!

161

INCIDENT INFORMAITON SLIP

Po 301-164(Rev 3-98)-pent(RMU)

Date: **4/12/05**

Welcome to **017**(Command), **167 E 51 St. NY, NY**(Address), 212-826-3211(Telephone No.). We hope that your business with us was handled satisfactorily. Your particular matter has been assigned the following number(s):

Complaint Report No:--**1888**---Accident Report No:----------

-Aided Report No:--------Reported to: **P.O. Garofalo #2129**(Shield No), Date of Occurrence: **2/16/05**, Time: **1630**, Location of Occurrence: **400East 57 Street Apt 10B**,

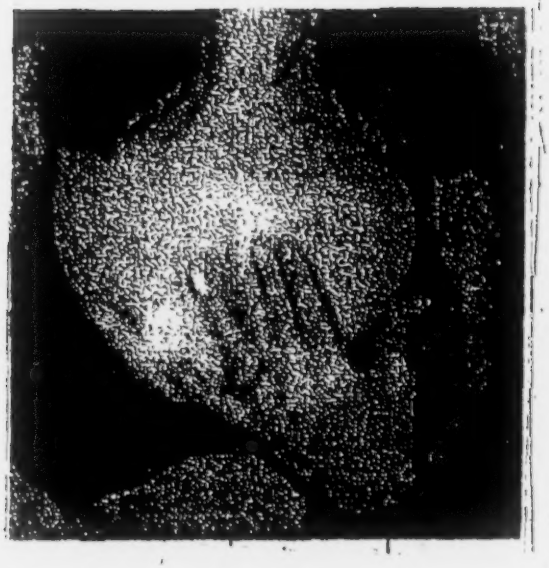
Crime: **Aggr. Harass**.

Please, keep this report should you have to refer to this matter in the future. If you need any further assistance feel free to contact us at telephone number----------. Please let us know if you have any suggestions on how we can better serve you. As you may already know, we will provide you with a crime prevention survey of your residence of business. Please, ask for more information on this and other crime prevention initiatives. Our goal is to make you and your properly safe.

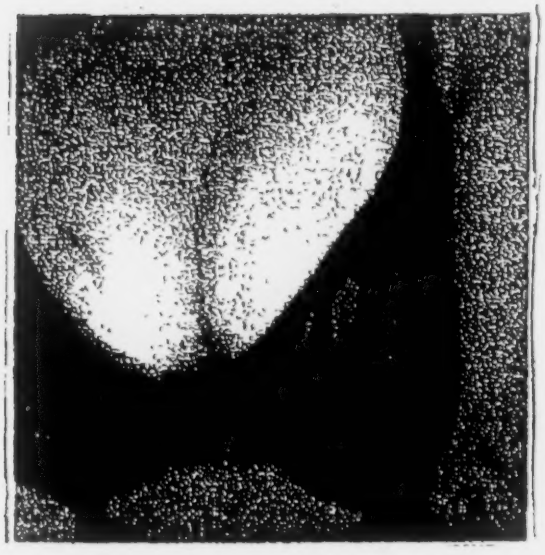
COURTESY-PROFESSIONALISM-RESPECT

REMEMBER; CALL 911 FOR EMERGENCIES ONLY!!!

Manhattan Criminal Court
100 Centre St,
212-374-5880
(Order of Protection)



Mr. Ketabchi burned my Breast on January 25 2005.



My picture, when I got raped by Mr. Ketabchi the first time.

MY CELL PHONE STATMENT

Account Name		AT&T Wireless		
IRENE BAHRAMI		Bill Date	Page	Mobile Number
		Jan 28, 2005		917-225-0072
Date	Time	Number Called	Calls To	Min
1/20	5:55p	646-369-9500	NWYRCYZN01	1
1/22	3:25p	Mretrieval	Local	1
1/22	5:30p	212-319-4197	New York	2
1/22	5:32p	646-369-9500	NWYRCYZN01	3
1/24	1:19p	Mretrieval	Local	2
1/25	4:59P	917-544-9257	New York	2
1/25	5:19p	M	Incoming	1
1/25	5:20p	212-319-4197	New York	5
1/25	5:25p	201-818-0488	Ramsey	14
1/25	5:31p	M	Incoming	1
1/25	*5:38p	917-544-9257	New york	1
1/25	*8:09p	Mretrieval	Local	1

MY LANDLINE STATEMENT, THEN I DID NOT HAVE A LOCAL SERVICE.

For Service to 212-319-4197 through 2/12/05
Service Address: 400E 57, 10B,
MANHATTAN
Account Name
IRENE BAHRAMI

Regional Calls

Date	Time	Number Called	Location	Min
Jan 21	5:44PM	914-779-7369	Tuckahoe, NY	1.00
	5:57PM	914-779-7369	Tuckahoe, NY	1.00
	5:58PM	914-779-7369	Tuckahoe, NY	1.00
Jan 28	3:18PM	516-561-8822	Valleystrm, NY	1.00

State to State Calls

Date	Time	Number Called	Location	Min
Jan 24	11:13AM	703-265-0094	Vienna, VA	.24
	11:14AM	703-265-0094	Vienna, VA	.42
	12:41PM	425-974-6100	Bellevue, WA	7:18
	12:48PM	425-974-6100	Bellevue, WA	5:06
	12:55PM	425-974-6100	Bellevue, WA	9:36
Jan 25	11:09AM	201-438-9315	RuthFord, NJ	.48
	8:36PM	201-818-0488	Ramsey, NJ	.24
Jan 26	11:50AM	425-974-6100	Bellevue, WA	8:24
	12:01PM	425-974-6100	Bellevue, WA	14:24
	12:44PM	201-438-9315	RuthFord, NJ	6:48
Jan 28	8:26PM	201-438-9300	RuthFord, NJ	:18
	8:32PM	310-452-5357	San Monica,CA	4:18

Questions about your bill or your service, call 800-276-2384.

411 pages of fraud and forged spread sheet was added to my case. Call listed at 4:16PM, is for 1067 minutes, even though the next call listed is at 7:37PM, which is 201Minute later. How could I make a call at 4:16PM for 1067 minute and make another call 201 minute later, except this spread sheet be fraud and forged by Mr. Ketabchi. 411 fraud and forge spread sheet with Mega forged minutes and no Logo, which was added to my case (page 308 belongs to 1/25/2005).

1/24 9:34PM 212-319-4197 646-369-9500 8
1/24 11:40PM 212-319-4197 212-203-4265 202
1/25 11:16AM 212-319-4197 212-517-3000 24
1/25 11:19AM 212-319-4197 212-517-3000 24
1/25 12:42PM 212-319-4197 212-687-7300 30
1/25 3:27PM 212-319-4197 646-369-9500 39
1/25 3:35PM 212-319-4197 917-5449257 3
1/25 3:36PM 212-319-4197 917-544-9257 46
1/25 4:10PM 212-319-4197 212-644-4700 11
1/25 4:16PM 212-319-4197 212-203-4265 1067
1/25 7:37PM 212-319-4197 917-674-0013 21
1/25 7:38PM 212-319-4197 718-380-4131 19
1/25 7:43PM 212-319-4197 212-203-4265 457
1/25 8:06PM 212-319-4197 917-674-3013 6
1/25 8:40PM 212-319-4197 646-369-9500 48
1/26 1:40PM 212-319-4197 212-366-6630 88
1/26 1:40PM 212-319-4197 212-686-2110 52
1/26 1:44PM 212-319-4197 212-869-6565 223

MR. KETABCHI FORGED HIS ONLY STATEMENT ON THE CASE. TO FALSE PROVE THAT HE WAS BUSY ON THE PHONE EVERY MINUTE IN 1.25.05, SO THERE WAS NO WAY FOR HIM TO BE IN MY APARTMENT AND RAPING ME.

VERIZON Wireless

Bill date: February 5 2005
Account number 107225625
Invoice number 310155016

Date	Time	Minutes	Phone number	Destination
1/24	10:06P	7	646-369-9500	Incoming
1/25	8:41A	6	201-575-6820	Mobile
1/25	10:04A	4	917-439-1888	Mobile
1/25	11:20A	1	646-369-9500	Incoming
1/25	11:25A	13	201-575-6820	Mobile
1/25	12:03P	2	201-893-6776	Ruthford
1/25	12:05P	1	973-706-8973	MT View
1/25	12:18P	2	917-579-2280	Mobile
1/25	12:21P	2	202-264-8671	Mobile
1/25	12:25P	5	201-575-6820	Mobile
1/25	12:29P	2	646-369-9500	Incoming
1/25	12:31P	17	201-575-6820	Mobile
1/25	12:47P	5	646-369-9500	Incoming
1/25	12:57P	1	201-612-1245	Ridgewood
1/25	1:19P	4	212-319-4197	New York
1/25	1:33P	2	201-403-6979	Mobile
1/25	1:37P	3	917-439-1888	Mobile
1/25	1:40P	3	201-681-3569	Hackensack
1/25	1:41P	2	646-369-9500	Incoming
1/25	1:43P	1	917-439-1888	Mobile
1/25	2:10P	3	201-575-6820	Mobile
1/25	3:07P	1	646-369-9500	Incoming
1/25	3:25P	1	646-369-9500	Incoming
1/25	3:27P	1	646-369-9500	Incoming
1/25	4:12P	1	646-369-9500	Incoming
1/25	4:31P	4	646-369-9500	Incoming

MR. KETABCHI FORGED HIS ONLY STATEMENT ON THE CASE. TO FALSE PROVE THAT HE WAS BUSY ON THE PHONE EVERY MINUTE IN 1.25.05, SO THERE WAS NO WAY FOR HIM TO BE IN MY APARTMENT AND RAPING ME.

VERIZON Wireless

Bill date: February 5 2005
Account number 107225625
Invoice number 310155016

		min		
1/25	4:42P	2	646-369-9500	Incoming
1/25	5:16P	2	201-575-6820	Mobile
1/25	5:56P	8	646-369-9500	Incoming
1/25	6:02P	12	646-369-9500	Incoming
1/25	6:15P	2	646-369-9500	Incoming
1/25	**6:49P**	**1**	***917-225-0072**	**Queens**
1/25	6:50P	3	212-319-4197	New York
1/25	7:20P	4	646-369-9500	Incoming
1/25	7:42P	1	646-369-9500	Incoming
1/25	7:55P	2	917-304-0707	New York
1/25	8:41P	1	646-369-9500	Incoming
1/26	8:41A	1	000-000-0086	Voice mail
1/26	8:52A	4	201-575-6820	Mobile

Designated the location, city and state, of the **cell** tower or switching center which processed the call.

My name is Sam Gbajumo, and I work in 400 East 57th Street, New York, NY 10022, Ms. Bahrami is one of the tenants in this building, on January 25 2005, Mr. Ketabchi, Ms. Bahrami's husband came to the building with some shopping bags, he took elevator and went up stairs, to Ms. Bahrami's apartment as usual.

In January 26 2005, I was working again and Ms. Bahrami called down stairs and asked us to leave a note in our book, not to let Mr. Ketabchi in 400 East 57th Street building ever again.

Thank you,

Sam Gbajumo

My name is Osei Agyemang, and I work in 400 East 57th Street, New York, NY 10022, Ms. Bahrami is one of the tenants in this building, on January 22 2005, Mr. Ketabchi, which I always assumed is Ms. Bahrami's husband, since I saw him every day in the building, from the time I started working here, called me and asked me to help him to carry a lot of shopping which he did for Ms. Bahrami up stairs, I carried everything up with the hand truck to Ms. Bahrami's apartment.

Thank you,

Osei Agyemang

Osei Agyemang

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---x

IRENDOKHT BAHRAMI,

Plaintiff, Date Filed: 02. 27.09

V.

MOHANNAD ALI SAADAT KETABCHI, MOHAMMAD SAADAT KETABCHI, MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI, HOMAYOUN KETABCHI,

---x

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Introduction

On or about July 19 2005, Irandokht Bahrami (Barhami or Plaintiff) filed an Amended Verified Complaint(Amended Complaint) against Mohammad Ali Saadat Ketabchi, a.k.a.(Ketabchi or Defendant) alleging, among other things, that " on or about January 28 2005 at approximately 5:00p.m.., Defendant Ketabchi…hit plaintiff, knocked her on the floor and raped her." Plaintiff seeks" special damages and punitive damages in an amount of Eight Million and One hundred Thousand($8,100,000.00)Dollars together with interest, cost, disbursements and reasonable attorney's fees."
On or about August 12 2005 Defendant filed an answer and alleged several counterclaims against Plaintiff, arguing, among other things, that the allegations in the Amended Complaint" are completely false and part of a disturbing pattern of behavior by which Plaintiff is harassing Ketabchi in an effort to extort money from him." Defendant charged plaintiff with malicious prosecution, abuse of process, slander, libel, intentional infliction of emotional distress, prima facie tort, and

extortion/attempted lareeny. On August 29 2005, plaintiff filed an Answer to Defendant's Counterclaims.
In preparation for(bench) trail of this case by the court, the parties submitted a Joint Pre-Trail Order, which contained, among other things a "statement of undisputed facts" and a listing of disputed issues. The parties also submitted trail exhibits. On or about September 10 2008 the plaintiff submitted affidavits in lieu of direct testimony of plaintiff's proposed witnesses, the plaintiff and plaintiff's two daughters, Atosa and Irman Shoughi and the Defendant submitted affidavits in lieu of direct testimony of Defendant's proposed witnesses, the Defendant's brother, Fred Ketabchi and Defendant's Doctor Robert H. Berger. On or about October 5 2008, plaintiff submitted an affidavit in lieu of direct testimony of plaintiff's expert, Doctor Craig L. Katz.
A bench trail was held on October 14 2008. At Trail the court had an excellent opportunity to observe witness demeanor and assess witness credibility.
On or about December 1 2008 the parties submitted post-trail proposed findings of fact and conclusions of law. The parties also submitted responses to the opposing side's proposed findings of fact and conclusions of law on or about December 12 2008. Proposed Findings of Fact and Conclusions of Law, dated Dec. 12 2008.
As more fully explained below the court concluded that plaintiff failed to establish her case by a preponderance of the evidence. The evidence that the alleged rape occurred as charged was evenly balanced with evidence that it did not occur as charged by plaintiff. Where the burden of proof is a preponderance of the evidence, the party with the burden of proof would lose in the event that the evidence is evenly balanced. The preponderance standard is no more than a tie-breaker dictating that when the evidence on an issue is evenly balanced, the party with the burden of proof loses.

Finding of Facts

Plaintiff's Case

1. Plaintiff is a citizen of New York.
2. Defendant is a resident of New Jersey.
3. The parties have known one another for over sixteen years. In the course of that time, they had ongoing sexual relations.
4. Plaintiff testified that she was forcibly raped by the Defendant on January 25 2005 at approximately 5pm at her apartment located at 400East 57th Street, New York, NY .
5 Plaintiff testified that on January 25 2005 while at her apartment and before her daughters arrived the Defendant approached the plaintiff about having sex with her, plaintiff told him that she id not want Defendant to touch her. Plaintiff alleges that Defendant began hitting her in her head, neck, back, and thighs and then forced himself on her and had intercourse with her against her will. The rape allegedly occurred on the living room floor of Plaintiff's apartment.
6. Plaintiff testified that "After Defendant raped me on Januray 25 2005 I cleaned myself up before my daughters arrived at my house."
7. Plaintiff's daughter Atosa Shoughi testified that on January 25 2005... One day before Mr. Ketabchi departed from New York City to Dubai at about 7:00 or 7:30, I came to my mother's apartment.. in order to have dinner with my mother, the Defendant and my sister Irman and I saw when I arrived that my mother looked disheveled and disoriented. Her hair was a mess and she had redness and bruises all around her neck.
8. Atosa Shoughi admits that she did not witness the alleged rape.
9. Plaintiff's daughter, Irman Shoughi testified that on the evening of January 25 2005... My mother called me on my cell phone and told me that I needed to come home for dinner as the Defendant wanted to have dinner together that evening because he was leaving for Dubai the following day." " I arrived at my mother's apartment…and I immediately noticed that my mother looked disheveled and disoriented. Her hair was a mess and she had redness and bruises all around her neck."
10. Irman Shoughi confirmed that she did not see her mother

get raped."

11. " According to Plaintiff and her daughters in the evening of January 25 2005 after all alleged rape the plaintiff her two daughters and the Defendant all had dinner together.

12. Plaintiff and her two daughters testified that Defendant departed New York on a trip to Dubai, United Arab Emirates the day following the alleged rape. Plaintiff, the Defendant was leaving on a trip to Dubai the following day, A. Shoughi, Mr. Katabchi was leaving on a trip to Dubai the following day, I. Shoughi, the Defendant was leaving for Dubai the following day.

13. Atosa Shoughi testified as follows: Q: Did you take your mother to the police station and ask then to arrest Mr. Ketabchi? A: Yes...The Court: When did you do it? A: I did it in February of 2005...The Court: You went to what police station? A: Seventeen precinct. The Court: And you filed a complaint? A: No, I did not.

14. Plaintiff has not submitted any police report, criminal complaint, or other documentation to support Atosa Shoughi's testimony that Plaintiff complained to the New York Police Department at the 17th Precinct in February 2005 that Defendant assaulted Plaintiff on January 25, 2005.

15. Atosa Shoughi testified that she and her mother went to the 17th Precinct in April 2005 to file a criminal complaint against Defendant. The court: And then you went back to the precinct in April? A: Yes. The court: Of 2005? A: Yes. The court: and what happened in April? A: She filed a --for a raped.

16. On or about April 12 2005 Plaintiff filed a criminal complaint at the 17th precinct against the Defendant. The Criminal Complaint alleges among other things, that the above listed Perp former boyfriend, Mr. Mohammad S. Ketabchi has on several occasions threatened to kill the plaintiff through phone calls or have his people have plaintiff killed...Plaintiff further states Defendant has been physically violent to plaintiff several times in the past and was too afraid to report Defendant. The Criminal Complaint "Aggravated Harassment," and states

the date of occurrence was "2005-02.16 16 30 Wednesday." The Criminal Complaint does not state that Defendant assaulted Plaintiff on or about January 25 2005.

17. Plaintiff's exhibit 18 includes: (I)a NYPD Incident Information Slip, dated April 12 2005, listing an alleged crime of " Aggr. Harassment." Date of Occurrence 2.16.05", and the Location of Occurrence: 400East 57Street Apt 10B; (II)the NYPD Criminal Complaint, dated April 122005, listing Mr. Mohammad S. Ketabchi as wanted for the alleged crime of "Aggravated Harassment" for an " Occurrence From: 2005.02.16 15:30 Wednesday"; and (III)a NYPD Incident Information Slip, dated February 28 2007, listing the alleged crime of "Aggr. Harass," Date of Occurrence:2.28.07, and the location of occurrence; 400E 57St #10B.

18 The Incident Information Slip, dated February 28 2007, does not include any other information about the alleged complaint apart from listing the alleged crime as "Aggr. Harass." Dated of Occurrence 2.28.07, and Location of Occurrence 400East 57Street #10B. It does not mention Defendant's name and does not contain an allegation that Defendant assaulted Plaintiff on or about January 25 2005. The Incident information slip leaves blank the spaces for "complaint Report No." Accident Report No"; and Aided Report No."

19. Craig L. Katz, M.D., a physician duly licensed to practice medicine within the State of New York and a "Diplomate in Adult Psychiatry, American Board of Psychiatry, and Neurology Diplomate in Forensic Psychiatry, American Board of Psychiatry and Neurology," (Aff. In lieu of Direct Testimony of Craig L. Katz, MD, dated Oct 1 2008, testified as an expert for plaintiff)

20. On or about December 17 and 18, 2007, Dr. Katz performed an evaluation of plaintiff regarding her complaint against Defendant. As part of his evaluation, Dr. Katz reviewed materials related to the litigation, but Dr. Katz did not review plaintiff's medical records.

21. Dr. Katz diagnosed plaintiff as having "Posttraumatic Stress Disorder, PTSD, and Major Depression "

22. Dr. Katz stated in his affidavit, dated Oct 1 2008, that plaintiff's PTSD was "spurred
On by an especially brutal rape in 2005." At trail, Dr. Katz in response to the court's questions, testified as follows:
The court: But you do not know, of your own knowledge whether she was or was not raped on that day?
Dr. Katz: No, I do not.
The court: So when you say in page 10 of your submission your affidavit, that you used the phrase, quote, spurred on by an especially brutal rape in 2005, then you go on, you don't have any knowledge of that?
Dr. Katz: No, I do not.
23. After Dr. Katz testified that he did not have any personal knowledge whether plaintiff was raped by the defendant on January 25 2005, he gave the following testimony: "the court: how did you come up with phrase, spurred on by an specially brutal rape in January 2005 if you had no knowledge, directly that such an incident occurred?
A: Well, as a psychiatrist, I can never know that something has happened.
24. Regarding his diagnosis of PTSD, in response to the court's questions, Dr. Katz testified as follows:
Dr. Kats: what I can say, is that she appeared to have posttraumatic stress disorder related to the events that she described to me with regard to Mr. Ketabchi. It is possible consistent with how PTSD develops that past experience may make someone more vulnerable to developing PTSD in response to a recent current trauma.
The court: Could your conclusion be the same…that it is based on her relationship with him, as opposed to any particular episode with him
Dr. Katz: Yes, if I'm understanding your question, it could certainly relate to the events that occurred in the course of their relationship in addition to a particular event.
The court: or even apart from
Dr. Katz: It's a possibility.

25. Plaintiff and her daughters made varying statements with regard to the dated of the alleged rape. In the Amended Complaint, plaintiff alleged that the rape occurred on January 28 2005, plaintiff testified during her deposition on November 4 2005 that the alleged rape took place on January 27 2005. In an affidavit dated December 29 2005, Atosa Shoughi stated among other things that the alleged rape occurred on January 27 2005. In an affidavit, dated December 29 2005, Irman Shoughi stated among other things that the alleged rape occurred on January 27 2005.

26. At trail, plaintiff, Atosa and Iramn Shoughi testified as follows, plaintiff, I was forcibly raped by the Defendant on January 25 2005, Atosa Shoughi, in January 2005(prior to the January 25th rape), Mr. Ketabchi ws in my mother's apartment together with my mother and me. Irman Shoughi, on the evening of January 25 2005, my mother called me on my cell phone and told me that I needed to come home for dinner and after dinner my mother told me that Mr. Ketabchi raped her. They also testified as follows: plaintiff: I only agree to the fact that it was one day before he went to Dubai…and it was between the date of January 25 and 28... I, myself have reached the conclusion that the day when he went to Dubai, one day before that, it was the 25th. Atosa Shoughi, so regardless, that I put Januray 27 2005 it still in January 25 2005 because it is one day before Mr. Ketabchi departed from New York City to Dubai. Irman Shoughi, so I do not know about the date, sir, so because the dated, we don't have calendar at home, we do not keep track. But I know exactly was one night before he leaves to Dubai. So I'm sure about that. Q: and when you wrote down here that you mother called you on January 25 2005, you gave the lawyer the date, is that right? A: I believe one day before he leaves to Dubai. I told you repeatedly.

27. There are no medical records indicating that plaintiff suffered physical injuries on or about January 25 2005. And the three documents plaintiff filed with the NYPD which were submitted collectively as plaintiff's Exhibit 18 do not include the

allegation that plaintiff was raped or otherwise assaulted by the Defendant on or about January 25 2005.

Defendant's Case

28. Defendant testified that any accusation by Ms. Bahrami that he reaped her is absolutely false. (Aff. In lieu of Direct testimony of Mohammad Ketabchi, dated July 31 2008. Defendant also testified that his "sexual relations with the plaintiff were always on a consensual basis.

29. Defendant acknowledges that he had dinner with the plaintiff and her two daughters at plaintiff's apartment a few days before he left on his trip to Dubai from Kennedy Airport, JFK, on January 26 2005,

Q: now, on January 28 2005, you were in Dubai that day correct? A: Yes,

Q: And on January 27 2005, you were also in Dubai? A: No, actually I was in Frankfurt, then we left from Frankfurt on the way to Dubai

Q: So you had left New York? A: I'm not sure, late night or sometimes.

30. Defendant denies that he was present at the plaintiff's apartment on January 25 2005 Q: And on January 25 2005, you were with the plaintiff, Ms. Bahrami? A: Never, no

31. Defendant acknowledges that he spoke with the plaintiff on the telephone on January 25 2005.

Q: Did you talk to her on January 25 2005? A: On the phone, yes

Q: Mr. Ketabchi , your testimony a few moments ago was that you did not see Ms. Bahrami on January 25 2005? A: Not at all

32. Defendant Exhibit 13 consists of telephone records showing the time, date, and telephone numbers called from either plaintiff's home telephone number, or her cellular telephone number. These records show that telephone calls were made from plaintiff's cellular telephone to Defendant's home telephone in Ramsey, New Jersey on January 25 2005. For instance the plaintiff's telephone records confirms that a call was

made on January 25 2005 from the cell phone of the plaintiff…at 5:25pm to Defendant's home in Ramsey, New Jersey…which lasted for 14 minutes." And, the plaintiff phone records reflect a call on January 25 2005, from her cell phone…to the home of the Defendant in Ramsey, New Jersey at 8:36pm. These records also show that defendant exchanged four additional phone calls with plaintiff on January 25 2005. For example on January 25 2005, the Defendant made a telephone call from his cell phone to the plaintiff at 1:19pm and spoke with her for four minutes at her home…and thereafter the defendant received a telephone call from the plaintiff from her home phone number…and spoke to him on his cell phone number…at 3:27pm. And on January 25 2005 the Defendant called the plaintiff from his cell phone…at 6:49pm for one minute on the cellular phone and then at 6:50pm fir three minutes on her land line.

33. At trail Defendant was shown the above telephone records included in defendant's Exhibit 13 and testified as follows;

Q: And is this the document that refreshes you that on January 25th you never was Ms. Bahrami? A: Never, never

Q: How do you know that, you were not at plaintiff's apartment on January 25 2005, sir?

A: Because I have…from....from 8:41, morning up to night 8:40 more, I believe 35 phone calls in coming/out going with my people and Ms. Bahrami.

34. Copies of defendant's airplane ticket from John F. Kennedy international Airport in New York to Dubai and his stamped passport confirm that Defendant left New York on January 26 2005 and arrived in Dubai on January 28 2005, on January 28 2005, the Defendant was in Dubai. On January 27 2005, the defendant was in Frankfurt, Germany on route to Dubai having departed from JFK on January 26 2005 as reflected by his airplane ticket.

35. Dr. Robert H. Berger, MD, a physician duly licensed to practice within the state of New York and board certified in psychiatry by the American Board of psychiatry and neurology

since 1982, by the American Board of Forensic Psychiatry, inc. since 1991, by the American Board of psychiatry and neurology with added qualifications in Forensic psychiatry since 1994 (Aff. In lieu of direct testimony of Robert Berger, MD, dated Aug 21 2008), was called to testify as an expert on behalf of Defendant.
36. Dr. Berger" examined the plaintiff on January 11 2006 and January 12 2006 for a total of eight hours." Dr. Berger testified that he "performed a thorough psychiatric examination and a psycho-social evaluation." As part of his evaluation, Dr. Berger reviewed documents related to the litigation including the complaint, dated April 14 2005, the amended verified complaint, dated July 19 2005, Defendant's responses to plaintiff's interrogatories, plaintiff's responses to defendant's interrogatories, the St. Vincent Catholic Medical Center in Crisis Program Report, dated August 23 2005, and the Millon Clinical Multiaxial inventory Third Revision(MCMI-III), as well as plaintiff's medical records including but not limited to, the medical records maintained by Dr. Thomas Caputo, Dr. Jeffrey Siegel, Dr. Faoud Surur, Dr. Martin Annis, and Dr. Joanne Pace. Dr. Berger stated that these medical records demonstrated plaintiff's " persistent pursuit of medical attention and medical care, despite being told by physicians that in many different areas there was nothing wrong, then, of course, there were important medical finding which again could in part account for her depression and her anxiety.
37. Dr. Berger's diagnosis of plaintiff is dysthymic disorder, chronically depressed mood(not causally related to the alleged complaint incidents); general anxiety disorder(chromic feelings of anxiety not causally related to the alleged complaint incidents); somatization disorder(pattern of recurring multiple physical somatic complaints, which are not fully explained by any known medical condition-not causally related to the alleged complaint incidents); and "borderline personality disorder with prominent narcissistic and histrionic features(these are chronic conditions and are not causally related to the alleged complaint incidents).

38. Dr. Berger testified that from my clinical examination of Ms. Bahrami and review of the medical records and my more than 30 years of experience in psychiatry and behavioral science and my teaching and research as a full clinical professor, it was my opinion that plaintiff suffered from a depressive condition. It's my opinion that the depressive condition likely fell within the dysthymic category. I could not substantiate more. And I did not think that it would be fair to minimize the depression to diagnose anything less than that.

39. Dr. Berger testified: I do not know whether what plaintiff claims against Mr. Ketabchi is true or not true. I was not there, and I am not privy to other kinds of information a fact finder might be privy to. And, I cannot state a medical opinion that she was or was not raped. Pr that her complaint of having been raped is or is not valid… I could not find her descriptions of these events to be sufficiently credible to me because in the context of everything else, I do not find her to be a credible individual particularly around issues that are emotionally laden.

40. Dr. Berger also testified that, "as far as plaintiff trying to feign any particular psychiatric condition, I did not see that. I thought that she cried because she became emotionally overwhelmed. She seemed anxious. She seemed very angry. And I thought that those were real feelings. I did not know necessarily what that genesis or etiology of those were.

41. Dr. Berger testified that I wanted to credit her to be able to say this woman is not healthy right now. There is--you know just from my experience and from my own professional empathy, I could tell that there is distress. And I was not going to write a diagnosis, whether, I was retained by the Defendant or not that there is no mental disorder, no mental condition merely because she did not provide me with information. I saw there was distress. I saw the distress in certain basic areas; depression, I saw anxiety, anger.

Summary:

42. The evidence presents a stalemate between plaintiff and defendant. There is no preponderance of credible evidence that

defendant assaulted plaintiff at plaintiff's apartment on January 25 2005.

III. Conclusions of Law,

1. Under New York Law, a rape is an undisputed assault and battery.(A claim for sexual assault may be framed as a claim for either assault or battery.)

2. Under New York Law, battery lies against a person who intentionally touches another person, , without that person's consent and causes an offensive bodily contact.

3. Under New York law, as assault is an intentional placing of another person in fear of imminent harmful or offensive contact.

4. In a bench trail such as this, it is the court's job to weigh the evidence, assess credibility and rule on the facts as they are presented. The court was in the best position to evaluate each witness's demeanor and tome of voice as will as other mannerisms that bear heavily on one's belief in what the witness, (only the trail judge can be aware of the variations in demeanor and tone of voice that bear so heavily on the listener's understanding of and belief in what is said.

5.. Where as here the evidence is equally divided as to whether plaintiff was raped by the defendant on or about January 25 2005, the party with the burden of proof loses(The evidence on this issue is substantially divided and in the court's assessment does not tilt sufficiently to plaintiff's case to satisfy the preponderance standard.)

6. A victim's testimony about assaults and rapes can be supported by among other things, a doctor who examined her, a police officers testimony as to her demeanor and physical appearance, the actions of the victim herself and the defendant's own contact. Corroboration is not required to establish rape or other sex offenses and any lack of corroboration goes merely to the weight of the evidence, no to its sufficiency. Facts and circumstances support and corroborate the credibility of testimony.

7. Expert testimony may be received…not as evidence that a

forcible rape occurred but rather to aid the fact-finder in its consideration of the victim's behavior in the aftermath of the alleged rape." Neither expert in this case knew whether or not a rape occurred and the expert testimony was evenly balanced.

8.

Defendant's counterclaims are abandoned because he failed to provide testimony or propose findings of fact or conclusions of law in support of his counterclaims. (plaintiff's post trail submissions propose no finding of fact or conclusion of law on the decision to leave New York, and thus that negligence claim is deemed abandoned. The failure to provide argument on a point at issue constitutes abandonment of the issue. Dismissing claim where party appears to have abandoned this claim, having failed to argue the claim in its post trail memo

Conclusion and Order

For the forgoing reason, the clerk of court is respectfully requested to enter judgment in favor of the defendant.

Thereafter, the clerk is respectfully requested to close this case.

New York, New York February 27 2009

Richard Berman

APPENDIX C

SUBJECT	PAGE
1- Mr. Dweck sent a letter 22 days after me filing a motion **to Judge Berman dated 03.24.10 lied, and said that he did not know, if my motion was a motion or not.**	1
2- Mr. Dweck sent a letter 24 days after me filing a motion, and requested an extension on reply brief up to April 9, 2010	2
3- District Court responded to Mr. Dweck request and **gave him a time extension as Mr. Dweck requested which is April 9, 2010**	3
4- District Court Order dated 05/13/10	4-7

1

THE DWECK LAW FIRM
75 ROCKEFELLER PLAZA
NEW YORK, NY 10019
MARCH 24, 2010

BY HAND DELIVERY
Honorable Richard M. Berman
United States District Court

Re: **Bahrami V. Ketabchi**
Civil Action No: 05-CV-3829(RMB)

Honorable Sir:

The undersigned are attorneys for Mohammad Ketabchi, the Defendant in the above named action.

In the Decision of the Second Circuit Court of Appeals, which affirmed the findings and **judgment following the trail before you, there was a provision which permitted the Plaintiff to move to set aside the Judgment on the grounds of fraud.**

I am in receipt of a set of papers from the Plaintiff and respectfully request your guidance. The papers do not contain a Notice of Motion and I do not know whether the same are timely or comply with the requirements for a motion to set aside a Judgment. A copy of the papers are enclosed herewith, along with a copy of the Decision of the Second Circuit Court of Appeals.

I respectfully request a direction from you as to whether these papers are to be treated as a Motion, require being responded to, and if so, when answering papers should be furnished.

I have conferred with the Pro Se Clerks, both in the Circuit Court and in the District Court, who have been unable to furnish any definitive answer to those questions.

Respectfully yours,
The Dweck Law Firm, LLP
Jack S. Dweck

THE DWECK LAW FIRM
75 ROCKEFELLER PLAZA
NEW YORK, NY 10019
MARCH 26, 2010

BY HAND DELIVERY
Honorable Richard M. Berman
United States District Court

Re: **Bahrami V. Ketabchi**
Civil Action No: 05-CV-3829(RMB)

Honorable Sir:

The undersigned are attorneys for Mohammad Ketabchi, the Defendant in the above named action.

I have spoken with you Clerk, Dan, who informed me that the Defendant has the option of responding to the papers submitted by the plaintiff to vacate the Judgment in the above entitled action.

In view of the delay in my having been able to secure guidance from various court personnel as to whether the papers submitted by the plaintiff were timely and had to be answered and whether they constitute a proper motion, **I respectfully request an extension until April 9, 2010 to respond to these papers.**

Respectfully yours,
The Dweck Law Firm, LLP
Jack S. Dweck

U.S. DISTRICT COURT
UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

NOTICE OF ÊLECTRONIC FILING:
The following transaction was **entered on 3/26/2010, at 3:54PM** EDT and filed on 3/26/2010.
Case Name: Bahrami v. Ketabchi
Case Number: 1:05-CV-3829
Filer:
Warning: Case closed on 03/04/2009
Document Number: 104 **Docket Text**:
ENDORSED LETTER:
Addressed to Judge Richard M. Berman, from Jack S. Dweck, dated 3/26/2010.
RE: **Counsel** respectfully **request** an **extension** until **4/09/2010**, to respond to the motion.
ENDORSEMENT: Application Granted. **Plaintiff** may submit a reply on or before **4/30/2010**. So ordered.

(Signed by Judge Richard M. Berman on 3/26/2010).(JFE

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK Date Filed: 5/13/10

IRANDOKHT BAHRAMI,
Civ.3829(RMB)(KNF)

Plaintiff,

- against-

MOHAMMAD ALI SADAT KETABCHI, ORDER
a/k/a MOHANNAD SADAT KETABCHI,
a/k/a MOHAMMAD KETABCHI,
a/k/a HOMAYOUN SADAT KETABCHI,
a/k/a HAMAYOUN KETABCHI,

Defendant.

1. Background

On February 27 2009, following a bench trial held on October 14 2008, the court found that Irandokht Bahrami(Plaintiff) failed to establish her case by a preponderance of the evidence. (Finding of Fact& Conclusions of Law, dated Feb 27 2009(Findings of Fact &Conclusions of Law), at 3, see also Tr. Of Bench Trail, dated Oct 14, 2008(Trail, Tr). On March 16 2009, Plaintiff filed a notice of Appeal in the United States Court of Appeals for the Second Circuit. On February 11 2010, the Second Circuit issued a summary order affirming the judgment of this court and stating that to the extent that Plaintiff argues that the judgment below depended on Fraud in the form of fabricated telephone records, such relief should be sought in a motion in the District Court under Rule 60(b)(3) of the Federal Rules of Civil Procedure(Fed. R.Civ.P.).(Summ.Order[#103], dated Feb.11,2010, at3.)

On March 2,2010, Plaintiff, proceeding Pro Se, filed a motion to set aside the Court's judgment, dated March 4 2009(Judgment), pursuant to Fed R. Civ.P.60(b)(3) arguing, among other things, that Mohammad Ali Sadat Ketabchi(Defendant) submitted forged documents

regarding…different matters, forged copies…of (Defendant's)cell phone statement and Plaintiff's landline phone statement, a forged letter to Dr. Surur and forged results of a test conducted by Dr. Robert Berger, that mislead the Federal Court.

On April 26 2010, Defendant filed an opposition, arguing, among other things, that Plaintiff's conclusory allegations and failure to submit any documents or testimony to corroborate her accusations…does not begin to approach the requirement of clear and convincing evidence. Further, Plaintiff has failed to set forth…that she was unable to have a fair trial and had the opportunity at the trail to demonstrate any alleged forgery.

By letter, dated April 28 2010, Plaintiff moved to strike opposition arguing that the due date of the opposition was April 9th and Defendant's April 26 filing was untimely.

By letter dated May 11 2010, Defendant's counsel responded that he had misread the court's order, dated March 26 2010 and erroneously believe that the Defendant was given until April 30 2010 to submit his opposition. Defendant further stated that the mistake was unintentional and that there has been no prejudice to the Plaintiff.

For the reasons set forth below, Plaintiff's motion to set aside the Judgment is denied.

II. Legal Standard

Relief under Rule 60(b)of the Fed.R. Civ.P. may be granted only upon a showing of exceptional circumstances. Rule60(b)(3) motion cannot be granted absent clear and convincing evidence of material misrepresentations and cannot serve as an attempt to relitigate the merits. And, a movant must show that the conduct complained of prevented the moving party form fully and fairly presenting his case.

When an act may or must be done within a specified time, the court may, for good cause, extend the time…after the time has expired if the party failed to act because of the excusable neglect.

Where, as here, a party moves Pro Se, the court construes their motion liberally, and interprets it to raise the strongest

arguments they suggest.

III. Analysis

As a preliminary matter, Plaintiff's application to strike the opposition is denied because, among other reasons, Defendant's counsel's error in misreading the Court's March 26 Order amounts to excusable neglect (Excusable neglect may encompass delays caused by inadvertence, mistake, or carelessness. There is no evidence of bad faith, there is no prejudice to the opposing party, and Defendant's excuse has some merit.

Motion to Set Aside the Judgment

Plaintiff does not point to any clear and convincing evidence of material misrepresentations sufficient to satisfy the standard for relief under Rule 60(b)(3). In the absence of an affidavit…or other competent evidence on these issues, this court is unable to find that the documents should be considered…intentional forgeries.

Plaintiff was not deprived of any opportunity to fairly present her case. In fact, plaintiff challenged the integrity of Defendant's documents at trial and in her post-trail submissions. (Respectfully ,a cursory look at the telephone records reveals that they are nothing more that a spreadsheet printout without any indication that they were produced by a telephone company, questioning the integrity of the MCMI3 answer sheet that was marked in pencil by Ms. Bahrami and which she did not receive a copy of prior to leaving it with Dr. Berger, Trail, Q: Ms. Bahrami.. did you write this letter to Dr. Surur? A Never, never, you probably wrote it yourself .It is not my handwriting…,(Defendant had forged-he had forged my signature and sent it Dr. Akava(to get my info from Oxford insurance), Q: Dr. Berger, there is no way for anyone to know whether any of the answers on the scantron were changed or altered in any way after Ms. Bahrami left your office, correct?. The court considered all of plaintiff's claims both at trial and in preparing the post-trail findings of fact and conclusions of law. If the falsity of the documents was or could have been disclosed

at trial, or in preparation for trail, the moving party was not deprived of an opportunity to fully and fairly present his or her case.

IV. Conclusion and Order

For the reasons stated herein, plaintiff's motion to set aside the Judgment is denied.

Dated: New York, New York
May 13, 2010

Richard M Berman

Supreme Court, U.S.
FILED

MAY 11 2010

OFFICE OF THE CLERK

file

NO. 10-127

IN THE
SUPREME COURT OF THE UNITED STATES

IRANDOKHT BAHRAMI

PETITIONER

VS.

MOHAMMAD ALI SAADAT KETABCHI, ALSO KNOWN AS MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI & HOMAYOUN KETABCHI

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SECOND BOOKLET

IRANDOKHT BAHRAMI
400 EAST 57TH STREET APT 10B
NEW YORK, NY 10022
917-225-0072

1- Plaintiff's Post-Trail Findings Of Facts 1-16

2- Affidavit of Mr. Ramin Tavari and me admitting to him that I was raped in January 25 2005. 17

3- Mr. Ketabchi forged the W-2 form And supporting documents for me which is too much to include in this booklet. I only included a copy of the forged W2 form. 18

4- Mr. Mohammad Ketabchi used his first name and his brother Mr. Fred Ketabchi's first name to purchase a cell number in 1998. (Mr.Mohammad Fred Ketabchi) 19

5- Mr. Ketabchi changed the information on his Deceased wife's Driving license 20

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

IRANDOKHT BAHRAMI,

Plaintiff,

-against-

MOHAMMAD ALI SAADAT KETABCHI, a.k.a. MOHAMMAD SAADAT KETABACHI, a.k.a. MOHAMMED KETABACHI, a.k.a. HOMAYOUN SAADAT KETABACHI, a.k.a. HAMAYOUN KETABACHI,

Defendants.

----------X

ECF CASE
Index No. 05 CV 3829 (RMB)
(KNF)

PLAINTIFF'S POST-TRIAL FINDINGS OF FACTS

Respectfully Submitted,
CERTAIN & ZILBERG, PLLC

MICHAEL A. ZILBERG (MZ 5250)
Certain & Zilberg, PLLC
535 Fifth Avenue, 23rd Floor
New York, New York 10017
Telephone: 212-687-7800

Dated: New York, New York
December 1, 2008

Testimony of Plaintiff [illegible]

She first met the defendant in 1987. Ms. Bahrami and the defendant engaged in several business transactions between 1987 and 1989, during which time the defendant accumulated a debt of $80,000 to the plaintiff. That debt was never satisfied.

In 1989 the defendant, a married man, convinced the plaintiff to go with him to see a house in New Jersey, which was owned by his parents, with the alleged intention of having Ms. Bahrami purchase the house. While at the house, the defendant raped the plaintiff.

This marked the commencement of a long term mentally and physically abusive relationship between the plaintiff and defendant. Since within the Iranian culture it is the woman who bears the fault and shame associated with having been raped, Ms. Bahrami could not get herself out of the relationship, fearing that the defendant would make these facts public.

This relationship came to its inevitable but much delayed conclusion on January 25, 2005, when the defendant forced himself on the plaintiff and raped her at her apartment. Ms. Bahrami had not only bruising on her body as a result of this rape, but also a burn on her breast which was administered by the defendant by placing a spoon in a hot cup of tea and then holding that spoon to plaintiff's breast.

Later that evening, Ms. Bahrami's two daughters came to the apartment and had dinner together with their mother and the defendant. It appeared that the defendant wanted to have dinner with the whole family as he was leaving on a trip to Dubai the following day. Ms. Bahrami sought psychological treatment after this even, having been diagnosed with Post Traumatic Stress Disorder.

Testimony of the plaintiff's daughters ATOSA and IRMAN

They both testified to the constant abuse sustained by Ms Bahrami at the hands of Mr. Ketabchi.

Atosa further testified about an event where she was attacked by the defendant during which time she felt sexually threatened.

Both daughters testified to the disoriented and disheveled look of their mother when they arrived for dinner at her house on the evening that the defendant claims that he was not there.

The defense emphasized on cross-examination that Ms. Bahrami testified that she had cleaned herself up after the rape in order to undermine the daughters' testimony regarding Ms. Bahrami's appearance. It is clear however that just because Ms. Bahrami had cleaned herself up does not mean that signs of having been violently attacked were not still present and readily observable.

Testimony of plaintiff's expert DR. CRAIG L. KATZ

Dr. Katz's extensive CV is annexed to the plaintiff's evidentiary submissions as Exhibit H. Briefly, he is a psychiatrist who is a Diplomate in Adult Psychiatry and Forensic Psychaiatry.

The professional opinion offered by Dr. Katz was based upon the following: A review of the Amended Complaint for Sexual Assault and Rape (dated 7/19/05); Deposition of Mr. Ketabchi, via Farsi interpreter (10/21/05), Deposition of Ms. Bahrami, via Farsi interpreter (11/4/05); Written notes of Dr. Robert Berger's evaluation of Ms. Bahrami on behalf of the defendant (1/11/06), Report of the Millon Clinical Multiaxial Inventory conducted by Dr. Robert Berger (1/12/06); Forensic psychiatric report of Dr Robert Berger (2/28/06); Ms. Bahrami's typed statement regarding Dr. Berger (date uncertain), Deposition of Dr. Robert Berger (3/22/06); Letter from Patricia Murphy, CSW, Ms Bahrami's psychotherapist (2/14/06); Interview of Ms. Bahrami on 12/17/07 (1.5 hours), 12/18/07 (1.5 hours), 12/20/07 (1 hour), and 12/27/07 (1 hour); Interview of Atosa Shoughi, patient's daughter, on 9/18/08 (50 minutes); and Forensic psychological report of Dr. Barry Rosenfeld (9/26/08).

Dr. Katz indicates that the plaintiff has been experiencing ongoing symptoms such as almost daily nightmares that and occasional flashbacks, including physical reactions such as

diarrhea or vomiting. Although the symptoms first started after the 1989 rape, they have worsened after the January 2005 rape.

Dr. Katz further indicated that Ms. Bahrami described avoidance symptoms, hyper-arousal symptoms as well as other depressive symptoms. Ms. Bahrami also scored a 64 on a Post Traumatic Stress Disorder checklist administered By Dr Katz (a score of over 44 is consistent with having PTSD). Dr. Katz also administered the Beck Depression Inventory, on which Ms. Bahrami's score indicated severe depression.

Dr. Katz's diagnosis was as follows. Posttraumatic Stress Disorder, chronic (DSM-IV code 309.81) and Major Depression, single episode, chronic, in partial remission (DSM-IV code 296.25)

As is more fully described in Dr. Katz's affidavit in lieu of direct testimony at paragraphs
15-22, Dr. Katz meticulously references the manner in which his diagnosis is carefully tested against the diagnostic guidelines contained within the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-IV), unlike defendant's expert witness Dr. Berger, who utilized the broad DSM-IV disorder "classifications"" rather than the specific symptom requirements set forth in the DSM-IV for each disorder diagnosis.

Dr. Katz questions Dr. Berger's diagnosis (located at paragraphs 23 and 24 of Dr. Katz's affidavit in lieu of direct testimony) in stating:

Dr. Berger's diagnosis of Borderline Personality Disorder with narcissistic and histrionic traits in Ms Bahrami is hard to substantiate for some very basic reasons. Borderline Personality Disorder (BPD) consists of a pattern of instability of interpersonal relationships, self-image, and emotions. It is this diagnosis which apparently leads Dr. Berger to conclude that Ms. Bahrami's complaints against Mr. Ketabchi "derive from longstanding personality defects." BPD certainly can by its very nature render someone prone to paranoia, problems with anger, and unstable and intense relationships. It may therefore be

tempting to look to these problems for explanations as to why Ms. Bahrami has made the allegations against Mr. Ketabchi and portrayed an admittedly extreme and hard to fathom situation of 16 years of abuse and threats. However, again, there is no available evidence that Ms. Bahrami meets criteria for BPD, including having problems with paranoia, anger, or relationships. These issues would need to be present from her early adulthood, to be apparent with people other than Mr. Ketabchi, and, even if they were present, to be clearly problematic even when she was not laboring under significant symptoms of anxiety and depression. For example, Dr. Berger also concluded that Ms. Bahrami has a number of other diagnoses, namely Generalized Anxiety Disorder, Dysthymic Disorder, and Somatization Disorder It would be especially difficult to maintain that someone has three such acute diagnoses and yet somehow be able to look beyond them and identify a more longstanding personality problem.

Dr. Berger's report indicates that he relied, in part, on her deposition and medical records to arrive at the diagnosis of BPD, but it does not explain what specific information therein supports this diagnosis. And, Dr. Berger's notes and report suggests that his diagnostic conclusions also derive from the difficulty he had interacting with and interviewing Ms. Bahrami. This difficulty, including her reported vagueness, argumentativeness, and refusal to answer questions (issues which appeared to plague her deposition), could be consistent with BPD or another personality disorder. But, they are not definitive of such a problem. Indeed, the problems with interviewing her could also stem from PTSD, leading Ms. Bahrami to become easily over-stimulated, agitated, emotional, avoidant, or even confused. Cultural and language issues may also explain some of this.

Dr. Katz also had Ms. Bahrami undergo diagnostic testing by Dr. Barry Rosenfeld, a licensed clinical psychologist. Dr. Rosenfeld's report, annexed to plaintiff's evidentiary submissions as Exhibit 13, indicates that the four tests that he

administered did not indicate any malingering or exaggeration of symptoms.

In court Dr. Katz testified that he found Ms. Bahrami to be credible. (Trail Transcript at P.6) He based this determination on the fact that as a trained psychiatrist he knows how to "look for elements that make for a coherent and consistent story." (Trail Transcript at P. 8) Nor did he find that the plaintiff's changing of the exact date on which the rape occurred to bring into question her credibility. (Trail Transcript at P. 11)

Dr. Katz testified that it is certainly not unusual to have a middle aged patient come to his office having had experience several traumas in their life. (Trail Transcript at P. 32) He also addressed defendants concerns during cross-examination in stating that such past traumas like having an abortion and the loss of a sister can lead to PTSD (as can any trauma), but are not usually a source of PTSD. (Trail Transcript at P. 19, 23 and 32) A person with prior traumas will however be more prone to developing PTSD from current or recent trauma. (Trail Transcript at P. 9-10 and 32-33)

Testimony of Defendant MOHAMMAD ALI SAADAT KETABCHI

Mr. Ketabchi testified via affidavit at paragraph 8 as follows:

> Over the course of many years, I gave numerous gifts to Ms. Bahrami which included money, jewelry and rugs. I provided financial support to Ms. Bahrami from the second year of our relationship. In 2004, I gave Ms. Bahrami money every month which I deposited into her account at Citibank in New York City and it was approximately $5,000 every month In January 2005 I made a deposit of $17,000 into Ms. Bahrami's account because of her threats to tell my children, my family and members of my mosque of my relationship with her. I gave the plaintiff the money because she was accusing me of different things, and I was afraid she would go to the FBI and carry out the threat to tell my children of our relationship.

At trial, Mr. Ketabchi did not offer any proof whatsoever of

the alleged $5,000 monthly deposits into Ms. Bahrami's account in 2004.

Although paragraph 8 of plaintiff's affidavit in lieu of direct testimony is abundantly clear in communicating that Mr. Ketabchi considered the $17,000 payment made in January of 2005 as hush money, it is unfortunately unclear form the intentionally vague wording as to whether the $5,000 monthly payments made to Ms. Bahrami in 2004 were made as gifts and support in furtherance of their relationship or whether these payments also constituted hush money.

Mr. Ketabchi testified at his deposition that he felt "trapped" in the relationship with Ms. Bahrami in that since 1998-99 she was threatening to tell his wife and family about their relationship if he ended their relationship. (October 21, 2005 Deposition Transcript at P. 164-65) Mr. Ketabchi gave similar testimony at paragraph 7 of his affidavit in lieu of direct testimony.

At pages 179-81 (10/21/05 deposition) of his deposition testimony however, Mr. Ketabchi testified as follows:

Q. After the second year of your relationship with Ms. Bahrami, what motivated you to make financial gifts to her?

A. We had a good relationship. She wanted help from me, and she said that I don't work that much and she said that she's in love with me and she cannot live without me.

Q Okay. Is there any other reason why after the second year of your relationship you commenced to pay monetary gifts to Ms. Bahrami?

A. I can say we were very good together, we had a good relationship together. And when she wanted help from a friend I should have helped her.

Significantly, in the above section of Mr. Ketabchi's deposition transcript there is no mention of any threats by Ms. Bahrami, which he claims started some time on the late 1980's, behind the significant sums of money that Mr. Ketabchi allegedly gave Ms. Bahrami prior to 2005, when Mr. Ketabchi

gave Ms. Bahrami $17,000 as alleged hush money.

Mr. Ketabchi appears to be having trouble with deciding whether to characterize the relationship with Ms. Bahrami as a "good relationship" where they "were very good together" and during which time he allegedly supported her with gifts consisting of various things as well as significant sums of money or whether to paint himself as a victim who was "trapped" in a relationship, from which he desperately wanted to free himself, for fifteen years by a woman who threatened to divulge the nature of their relationship to his wife and family.

Oddly enough, the hush money that Mr. Ketabchi allegedly paid to Ms. Bahrami in January of 2005 and perhaps all throughout 2004 was all paid after his wife of 38 years had died of cancer on February 14, 2003. (October 21, 2005 Deposition Transcript at P. 134)

Mr. Ketabchi's vastly inconsistent characterization of his relationship with Ms. Bahrami is indicative of the fact that Mr. Ketabchi is simply not being truthful and is desperately trying to cover up the true abusive nature of the relationship between himself and Ms. Bahrami.

This is proof that Mr. Ketabchi is not a credible witness and as such his testimony should be disregarded by the Court.

With regard to imposing a curfew on Ms. Bahrami's, Mr. Ketabchi testified at trial that he "asked" Ms. Bahrami to be home before sunset. (P. 118) Mr. Ketabchi went on to explain the reason at pages 119-20 of the trial transcript as follows:

Q. What were you concerned that might happen to her if she came home after it got dark?
A. No, I should say this.
THE WITNESS: Can I?
THE COURT: Yeah.
THE WITNESS: About -- I don't remember, two years ago, when -- one and a half years ago. Between January 23 or something, 25, one day, I was at her home. And she came, so said I had a dream somebody killed me in -- in New York City and darkness.

MR. CERTAIN: Your, I'm going to object as nonresponsive.
THE COURT: It is. I think it is.
Q. What were you afraid of? Meaning the witness?
MR. DWECK: He didn't finish the answer, your Honor.
THE WITNESS: If you want the reason -- THE COURT: Yeah.

THE WITNESS: -- I tell you.
Then -- and I talked to her, those two daughters. And they decided, they don't let her be out of the -- at dark, now, because she said dark, was be killed on 57 Street, I saw, you know, my ghost, I'm dying. I said what you should do, because you believe in your dreaming, let's go you don't be home at darkness. Always try to be home before the darkness. That's what her daughters told her and she asked me, always calling me, if I'm not coming at darkness, you talk to me and tell me. Honestly, something, whatever they want, you should be, because of her safety. I always talking to her, always I would say something to her every day, are you there. If you see, if you have any record, if you see, almost hundred times, I say don't be home before darkness, don't be home before darkness. If I was controlling to her, I would say, where you are during the day, why you -- I ask where you are the whole day. All this I asking, please, be home before darkness, because of your dream. That's why I was doing it. That's all.
Q. So it's only because of her dream that you were required her to be home before it got dark --
A. Did you understood it to --
Q. -- is that correct; yes or no?
A. Yes. Yes.

This explanation hardly makes sense in light of the recorded interaction between Mr Ketabchi and Ms. Bahrami in their recorded conversation that was recorded by Ms. Bahrami a few days prior to the January 25, 2005 rape. The recording, together with a translated transcript of the telephone conversation, have been presented to the Court as Plaintiff's Exhibit 1.

The plaintiff respectfully suggests that the court listed to the recording even though it is not in English so that the Court may

get a sense of the tone that Mr. Ketabchi used in speaking with Ms. Bahrami, particularly the manner in which he yelled at her.

In reading the transcript, particularly in combination with listening to the voice and expressions of anger by the defendant, one certainly does not get a sense that Mr. Ketabchi is looking out for Ms. Bahrami's best interests and that his prohibition for her to be outside after dark has anything at all to do with a dream as Mr. Ketabchi testified to.

Most significantly, Mr. Ketabchi testified at trial that this issue regarding Ms. Bahrami not going out after dark was based upon a dream that she told him some time between January 23 and 25, just prior to the rape.

I respectfully suggest to this Court that there is absolutely no rational basis for accepting Mr. Ketabchi's explanation for the enforced curfew as true. The transcript of the telephone conversation obviously reflect a long-standing curfew and not one that was imposed for just a few days, as Mr. Ketabchi suggested at trial.

This is further proof that Mr. Ketabchi is not a credible witness and as such his testimony should be disregarded by the Court.

Mr. Ketabchi further testified at trial that toward the beginning of their relationship, he had taken Ms. Bahrami to his parents' New Jersey house for the purpose of having sex and that Ms. Bahrami was aware of that this was the purpose of the trip. (Trail Transcript at P. 109-10)

During the same recorded telephone conversation that has been submitted by plaintiff as Exhibit 1, when confronted with accusations of rape by Ms. Bahrami Mr. Ketabchi responded with phrases such as: "Let's not talk about it now," "I remember, I talked to god and thought with myself and said to myself [thank god] that she didn't make a problem and didn't make it hard" and "Yes that's life." The relevant portion of transcript is as follows:

Woman: Remember you wanted to show me a cheaper house and I was very much afraid to get in to the house

with you, and I said, that I have to leave soon and go back to work at my store, remember, I said today I have no 12 employees ..But Babar one of your employees who was working in 14 street then.

I was afraid of you. You told me, you need to go do your prayers (namaz) on time and I said ok. Then while you were doing your prayers I was thinking by myself, and asked God for his forgiveness from that I thought of you may be dangerous while you are so religious and doing prayer (namaz).

Man: Let's not talk about it now.

Woman: No let me tell you the rest Homayoon, while I was thinking you were such a nice man while you were doing your prayer (namaz) and I trusted you and respected you after your prayer, but you after finish praying, you came up to me and said let me show you the other room please, and I said it's ok it's already to late and I have to leave soon, but you insisted and said this house very low price and I said great ok and when you try to show me the other room, instead you raped me, and after that I really hated you.

One night you took poor Mona to McDonalds up to 2 am and called me many times, but I didn't pick up the phone, I all the time runaway from you.

After that you said I am going to do my prayers (namaz), I thought that you probably will rape someone after your prayers (namaz) and you think is very normal and nothing bad about it.

Man: I remember, I talked to god and thought with myself and said to myself ALHAMDOLALA it's a arabic word in English means (thank God), that she didn't make a problem, and didn't make it hard.

Woman: Ya right you are ridiculous, I felt so disgusted, and so dirty and so…guilty. You looked at my legs and said "your legs are so..beautiful", but I hated you and I was so..angry. For a few years I was running away from you,

but I didn't know probably that's my destiny and my life that I have to live like this.

Man: Yes that's life.

This is further proof that Mr. Ketabchi is not a credible witness and as such his testimony should be disregarded by the Court.

Mr. Ketabchi testified at trial that when he traveled to London with Ms. Bahrami in 1999, his passport was not stamped at Heathrow Airport, while Ms. Bahrami's was. (Trail Transcript at P. 120-122) Ms. Bahrami has maintained that Mr. Ketabchi did not use his own passport on that trip. In fact, at lines 11-14 at page 122 of the trial transcript, when being asked regarding the stamping of his passport, Mr. Ketabchi says "I'm not sure it was mine or not."

This is further proof that Mr. Ketabchi is not a credible witness and as such his testimony should be disregarded by the Court.

At pages 4, 5 and 308 of defendant's Trail Exhibit 13 Mr. Ketabchi presents what are purported to be Ms Bahrami's home telephone records. In fact, defense counsel spent some time cross-examining Ms. Bahrami regarding the calls made from and to her home based upon those records. Respectfully, a cursory look at those records reveals that they are nothing more than a spread sheet printout without any indication that they were produced by a telephone company.

Significantly, at pages 295 and 296 of defendant's Exhibit 13 attached are copies of Ms. Bahrami's Broadview telephone bills for the relevant time period. None of the telephone calls indicated at pages 4, 5 and 308 of the spreadsheet are contained within pages 295 and 296 of the Broadview telephone bills.

This is further proof that Mr. Ketabchi is not a credible witness and as such his testimony should be disregarded by the Court.

Testimony of Defendant's expert witness DR. ROBERT BERGER

Dr. Berger testified at trial that the MCMI III behavioral

disorder test that he administered to Ms. Bahrami did not factor into his evaluation and diagnosis of the plaintiff. Considering the fact that Dr. Berger did not indicate that anything went wrong during the administration of the test or that some other unforeseen event rendered the results unreliable, it is somewhat odd that Dr. Berger spent two of the eight hours that he spent examining the plaintiff on administering this examination.

It is likewise rather odd that Dr. Burger did not indicate in his expert report of February 28, 2006 or in his affidavit in lieu of direct testimony that he did not at all rely upon the results of the MCMI III examination that he administered.

Dr. Berger did testify at trial that the MCMI III test results did indicate that Ms. Bahrami was not exaggerating symptoms. (Trail Transcript at P. 147)

With regard to Dr. Berger's evaluation and diagnosis of Ms. Bahrami, he testified that he utilized the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-IV) "classifications" rather than the diagnostic checklists. I can only presume that this means that Dr. Berger did not go look past the DSM-IV index. Certainly, any professional protect his diagnosis from being questioned by stating that his opinion is based upon his "experience" rather than specific diagnostic checklists which are generally accepted within the medical community and which can be questioned and tested with greater specificity.

With regard to his diagnosis of Dysthymis Disorder, however, Dr. Berger conceded that failing to include in his notes that the plaintiff has been suffering from depression for at least the last two years (a DSM-IV diagnostic requirement) was an "oversight." (Trail Transcript at P. 150-52)

Next, with regard to his diagnosis of Somatization Disorder, when confronted with the DSM-IV diagnostic checklist Dr. Berger explained his shortfall in gathering the necessary information for such a diagnosis on his representation that he could not always secure the information that he needed from the plaintiff. (Trail Transcript at P. 158) He did testify, however,

that he did not request any additional time with the plaintiff. (Trail Transcript at P. 159)

With regard to his diagnosis of the plaintiff with Borderline Personality Disorder, Dr. Berger admitted that a description of symptoms associated with such a condition set forth in his expert report of February 28, 2006 did not apply to Ms. Bahrami.

Dr. Berger retracted his finding that Ms. Bahrami's "complaints lack credibility" when asked whether he was referring to "all of them," admitting that this statement, made at paragraph 10 of his affidavit in lieu of direct testimony, was simply too broad. (Trail Transcript at P. 161-62) In clarifying his written testimony, Dr. Berger testified at page 162 of the trial transcript that:

"I don't know whether what she claims against Mr. Ketabchi is true or not. I was not there. And I'm not privy to other kind of information a factfinder might be privy to. From a psychiatric perspective, I found that she lacked a degree of credibility that made me uncomfortable in my psychiatric evaluations and assessments."

Here, I respectfully request that the Court consider this testimony in parts.

First Dr. Berger states that. "I don't know whether what she claims against Mr. Ketabchi is true or not. I was not there." This makes perfect sense and is probably one of the few credible pieces of testimony offered by this witness.

Next Dr. Berger says: "And I'm not privy to other kind of information a factfinder might be privy to." What in the world does this mean? What information was there that was material to a proper psychological evaluation and diagnosis that Dr. Berger feels is available to the factfinder that he was not "privy" to? I presume that defense counsel could have forwarded for Dr. Berger's review and analysis any and all documents and information that the "factfinder" would be "privy" to. Although it would make sense if Dr. Berger testified that the ultimate power to determine whether the rape in fact occurred

rests with the "factfinder," but that is not what he said. He said that he did not have all of presumably material information that was necessary for the making of a determination on this issue. Respectfully, this is simply an empty statement that is offered in the hope that the Court will absolve him of performing slipshod analysis with regard to Ms. Bahrami.

Finally, Dr. Berger says: "From a psychiatric perspective, I found that she lacked a degree of credibility that made me uncomfortable in my psychiatric evaluations and assessments." Then how can Dr. Berger in the same breath diagnose Ms. Bahrami with Dysthymic Disorder, Generalized Anxiety Disorder, Somatization Disorder and Borderline Personality Disorder with Narcissistic and Histrionic Features?

If Dr. Burger felt that there was such a great credibility gap that caused him to be "uncomfortable in [his] psychiatric evaluations and assessments," then why did he not say that from the beginning instead of forming a diagnosis and defending this diagnosis in Court? The answer is of course rather simple. He made the findings that he was hired to make.

In fact, Dr. Berger admitted that he knew that it would be helpful to his employer in this case, Mr. Ketabchi, if he found that Ms. Bahrami lacked credibility. (Trail Transcript at P. 166-67) In fact, while answering a question regarding the integrity of the MCMI III answer sheet that was marked in pencil by Ms. Bahrami and which she did not receive a copy of prior to leaving it with Dr. Berger, Dr. Berger stated at P. 33 of his March 22, 2006 deposition transcript: "I'm not sure why I would have an interest in making the plaintiff appear either positively or negatively in any which light, *but certainly why would I want to change an answer to make her appear in a more favorable light*?" (emphasis added)

Dr. Berger truly goes overboard and reveals his unbridled bias and lack of professionalism at paragraph 22 of his affidavit in lieu of direct testimony where in he determines to a reasonable degree of medical certainty that Ms. Bahrami's claim that she

was raped by the defendant is not credible. When confronted with this finding at trial, Dr. Berger quickly retracted this patently absurd finding. (Trial Transcript at P. 165) Respectfully, Dr. Berger's testimony should be disregarded by the Court.

CONCLUSION

The plaintiff has made out case for sexual assault, as plead in the Amended Verified Complaint.

As a result of the January 25, 2005 attack, the plaintiff has suffered from stress, emotional distress, mental pain and suffering as well as obvious adverse physical consequences.

Respectfully, as is more fully discussed above, the defendant's patent lack of credibility should cause any and all material issues of fact pertaining to whether the alleged incident in fact occurred to be determined in favor of the plaintiff. The same is the case with regard to the defense expert, Dr. Berger, who demonstrated a cavalier case in shirking his professional obligations in favor of seeing through his assignment of painting the plaintiff in an unfavorable light.

12.15.05

I Ramin Tavari being duly sworn, deposes & say that:
I am a Citizen and Permanent resident of USA. I make this affidavit on behalf of Ms. Bahrami. I know Ms. Bahrami over 10 years, she is a very nice, and honest person.
She came to me early Feb 2005 and told me she had been raped on January 25 2005 by Mr. Mohammad Ali Sadat Ketabchi.

Mr. Ketabchi made this forged W-2 form for me and also did it for so many others. He also forged the supporting Documents, Forms 1040, Schedule A, and Form IT-201.

Copy C For Employee's Records **2001**
(See Notice to Employee on back on back of Copy B)

Employee ID number **13-3619250**

1- Wages, tips, other comp	65260.00
2- Federal income tax withheld	11960.00
3- Social security wages	65260.00
4- Social security tax withheld	4046.12
5- Medicare wages and tips	65260.00
6- Medicare tax withheld	946.27

WOLD OF NUTS & CHOCOLATES
OF 1275 LEXINGTON AVE INC
NEW YORK, NY 10028

Employee's social security number 000-000-0000

Employee's name, address, and Zip code
IRENE(IRANDOKHT)BAHRAMI
400 EAST 57TH STREET APT 10B
NEW YORK, NY 10022

16- State wage tips, etc	65260 00
17- State income tax	3640.00
18- Local wage, tips, etc	65260 00
19- Local income tax	1924 00
20- Locality name	NYC

Form W-2 Wage and Tax Statement

Mr. Mohammad Ketabchi used the combination of his first name and his brother's first name Mr. Fred Ketabchi's to purchase a phone number. Mr. Mohammad Ketabchi also, used his brother's Mr. Fred Ketabchi American Passport to travel to England in Nov 11 1999, and he admitted at the Trial, also, I was witness of that act. This document is not related to the rape, but to show, one of Mr. Ketabchi's illegal act.

AMERICAN ONE NEW YORK METRO PAGE 4
P.O. BOX 85559
11011 WEST BROAD STREET Date of Invoice
RICHMOND, VA 23285-5559 **04/06/98**

Telephone Number
Account Name **917-748-3561**
MOHAMMAD FRED KETABCHI
WORLD OF NUTS AND ICE CREAM
847 2ND AVE
NEW YORK, NY 10017-0000

Cellular Airtime & Cellular Long Distance for #917-748-3561

Date	Time	#Called	Location	Min	Airtime
3-28	2052	201-848-9730	Wyckoff	2	.64
3-29	1424	212-319-4197	NY	1	.32
3-29	1717	201-848-5657	Wyckoff	1	.32
3-29	1722	201-891-4517	Wyckoff	2	.64
3-29	1826	201-848-9730	Wyckoff	4	1.28
3-29	1837	212-319-4197	NY	2	.64
3-29	1947	201-848-9523	Wyckoff	1	.32
3-29	1948	212-490-7112	NY	1	.32
3-29	2113	212-319-4197	NY	6	1.92
3-30	0941	201-864-8991	Union City	1	.42
3-30	0949	212-967-7847	NY	1	.42

Mr. Ketabchi's deceased wife was a beautiful blond, blue eyes, 5-11 height. When she was sick, Mr. Ketabchi came to me, said, I renewed Mahvash's license and changed her information completely so, anyone I want can use it, he gave me, Mahvash Ketabchi's license and asked me to use it, I did not use it, but I kept it.

Motor Vehicle Services — NEW JERSEY

OPERATOR LIC K2840 51062 54532
CLASS D AUTO ENDR RESTR 1

DOB 04-27-1953
EXPIRES 04-30-2005

MAHVASH B KETABCHI
716 CARRIAGE LANE
FRANKLIN LKS NJ 07417-1526

SEX: F EYES: BRN HT: 5-03 ISSUED 3.18.01
RP200107547984301 REN 16.00

ALL THE PEOPLE ABOVE TESTIFYING AND SIGNING THIS LETTER REGRADING THE TWO FORGERY PHONE STATEMENTS BY MR. KETABCHI FOR THE REASONS ABOVE.

1- MR. KETABCHI'S ONLY PHONE STATEMENT SUBMITTED TO THE CASE WAS FORGED BY HIM. IF MR. KETABCHI EVER MADE A CALL (1/25/2005, 6:49PM, 917-225-0072QUEENS, ONE MINUTE),WHICH IS LISTED IN HIS FORGED VERIZON WIRELESS STATEMENT. MS. BAHRAMI WOULD HAVE AN INCOMING CALL AT 6:49PM IN HER CELL STATEMENT. MS. BAHRAMI HAS NO INCOMIN OR OUTGOING CALL BETWEEN HOURS OF 5:38PM AND 8:09PM IN HER CELL STATEMENT. AND SINCE MS. BAHRAMI SUBMITTED HER ORIGINAL STATEMENTS TO THE COURT AND MR. KETABCHI SUBMITTED COPIES. MR. KETABCHI'S VERIZON WIRELESS IS FRAUD AND FORGED BY HIM.

2- 411 PAGES WITH MEGA FAKE MINUTES AND NO LOGO, IS NOTHING BUT FRAUD SPREAD SHEET BY MR. KETABCHI AND WAS ADDED TO MY CASE WITH KNOWLEDGE OF THE FRAUD BY MR. DWECK. CALL LISTED AT 4:[illegible]PM FOR 1067MINUTES AND THE NEXT CALL WAS LISTED AT 7:37PM ONLY 201 MINUTE LATER, WHICH IS IMPOSSIBLE. THIS SHOWS THAT 411 PAGES ARE NOTHING BUT FRAUD SPREAD SHEET BY MR.KETABCHI.

1-In my knowledge, Verizon Wireless cell statement and the spread sheet are fraud and forged for the reasons above.

PHONE EXPERT FROM VERIZON WIRELESS.
WIRELESS ONE
996 1ST AVE
NEW YORK, NY 10022

Robert Kuhn

2-In my knowledge, Verizon Wireless cell statement and the spread sheet are fraud and forged for the reasons above.
PHONE EXPERT FROM VERIZON WIRELESS
WIRELESS ONE
996 1ST AVE
NEW YORK, NY 10022

3-In my knowledge, Verizon Wireless cell statement and the spread sheet are fraud and forged for the reasons above.

A. Shoughi

4-In my knowledge, Verizon Wireless cell statement and the spread sheet are fraud and forged for the reasons above.

I. Shoughi

4-In my knowledge, Verizon Wireless cell statement and the spread sheet are fraud and forged for the reasons above.

Ms. Bahrami

I WENT TO AT&T IN 425 LEXINGTON AVENUE, NEW YORK, NY, TALKED TO MR. ROBERT, THE PHONE EXPERT AND HE SAID THAT VERIZON WIRELESS STATEMENT IS OBVIOUSLY FRAUD, ALSO THE SPREAD SHEET IS NOTHING BUT FRAUD WITH NO LOGO AND FORGED MEGA MINUTES. BUT I HAVE NO PATIENT FOR COURTS, THAT'S WHY I AM NOT SIGNING IT.

Supreme Court, U.S.
FILED
AUG 18 2010
OFFICE OF THE CLERK

No. 10-127

IN THE

Supreme Court of the United States

IRANDOKHT BAHRAMI,

Petitioner,

- against -

MOHAMMAD ALI SAADAT KETABCHI,
a.k.a. MOHAMMAD SAADAT KETABCHI,
a.k.a. MOHAMMAD KETABCHI,
a.k.a. HOMAYOUN SAADAT KETABCHI,
a.k.a. HAMAYOUN KETABCHI,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

RESPONDENT'S OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI

JACK S. DWECK
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(212) 687-8200

QUESTIONS PRESENTED

1. Did the Petitioner demonstrate that the Findings and Conclusions of the District Court were "clearly erroneous"?

2. Did the Petitioner demonstrate by "clear and convincing" evidence any fraud by the Respondent on her post-appeal motion pursuant to Fed.R.Civ.P. 60(b)(3) to vacate the Judgment of the District Court which was denied by the District Court?

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STATEMENT OF THE CASE

The Petitioner brought a civil action against the Respondent and sought monetary damages of Eight Million Dollars based upon an allegation that he raped her on January 28, 2005. The Petitioner was represented by two sets of seasoned attorneys from the inception of that action in the District Court[1], who conducted extensive discovery and appeared for her throughout the trial until Judgment was entered. The Petitioner did not prevail and Judgment was entered in favor of the Respondent. She filed and prosecuted an appeal *Pro Se* in the Second Circuit Court of Appeals, which affirmed the Judgment of the Lower Court.

The Petitioner thereupon moved pursuant to Fed.R.Civ.P. 60(b)(3) to vacate the Judgment of the District Court based upon allegations of fraud, misconduct and misrepresentation. That motion was denied.

The Petitioner has now sought Certiorari in this Court.

This is a diversity case.

After the Respondent severed a sixteen year relationship with the Petitioner, he was charged in the original Complaint with having raped her on January 28, 2005. The Respondent's Answer denied the allegations, since their sexual relationship was always consensual throughout their 16 year relationship.

During discovery, the Petitioner became aware that the Respondent was in Dubai on January 28, 2005. When this was brought to the Petitioner's attention, she testified no less than six times in her

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[1] Southern District of New York.

deposition that the date of the alleged rape was January 27, 2005. Her two daughters also signed statements that the alleged rape took place on January 27, 2005.

In the course of discovery, and after Petitioner's counsel examined the Respondent's passport, it was learned from his airplane ticket that on January 27, 2005, the Respondent was in transit en route to Dubai and that his flight had stopped in Frankfurt, Germany on that date. Shortly before the trial, by application to the District Judge, the Petitioner requested and was granted leave to amend the date in her Complaint, for the second time, that the alleged rape took place on January 25, 2005.

The changes in the dates of the alleged rape were followed in a similar fashion by the Petitioner's two daughters who, back in December 2005, signed statements, at the request of Petitioner's attorney, which attested that the rape took place on January 27, 2005. The two daughters disaffirmed these statements on the eve of trial and submitted new sworn statements, prepared by their mother's new counsel, that the date of the alleged rape of their mother was January 25, 2005.

At the trial, the Petitioner was confronted on cross-examination with her cell phone records. They showed that her cell phone was used to call the Respondent's home in New Jersey at 5:25 P.M. on January 25, 2005, for a 14 minute conversation. This was in direct conflict with the Petitioner's testimony that she was raped at 5:00 P.M. on that very same day in her apartment in Manhattan. She claimed that the Respondent was with her continuously, *all that day and part of the night*, from early morning until around midnight, and that at 9:00 P.M., she, her two

daughters and the Respondent had dinner together at her apartment.

During cross-examination, the Petitioner was shown her cell phone invoice which confirmed a 14 minute call from her cell phone to the Respondent's home. The Petitioner retorted that it was the Respondent, and not her, who used her cell phone to call his house to speak to his daughter during that call at 5:25 P.M. on January 25, 2005. In addition, there were multiple telephone calls to the Respondent on the Petitioner's cell phone bills, as well as to her children, which the Petitioner claimed were all made by the Respondent, who used her telephone.

This is contrasted by the Respondent's testimony on re-direct examination in which he confirmed that between 8:41 A.M. and 8:41 P.M. on January 25, 2005, there were 35 calls on his cell phone, both incoming and outgoing, with calls to his business, his employees, as well as to and from the Petitioner.[2] One of the calls reflected that the Respondent was in Queens, NY. This documentary evidence completely negated the Petitioner's claim of rape and placed into question the veracity and reliability of her testimony.

The Petitioner also confirmed on cross-examination that after the alleged rape, she never went to a hospital, never sought treatment by a physician, never made a complaint to the police, never swore out a complaint against the Respondent,[3] and never had him arrested. What militates against the Petitioner's allegation of rape is that there was never any rape kit,

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[2] On cross-examination, the Petitioner confirmed her cell phone and land line telephone numbers in 2005.

[3] A month later after she retained counsel, she filed a criminal complaint of "aggravated harassment" for an event that allegedly took place on January 28, 2005.

ripped clothing, cuts, bruises, wounds, photographs, or any evidence to confirm that she was raped. On the contrary, the Petitioner testified she had dinner at her apartment with the Respondent and her two daughters on the night of the alleged rape, a few hours after the alleged 5:00 P.M. rape.

Although the Respondent was traveling in Dubai and elsewhere for approximately three months, the Petitioner never notified the police of any alleged rape until *after* she retained counsel in this action.

At the conclusion of the trial, Proposed Findings of Fact and Conclusions of Law were submitted to the District Judge by the parties, followed by responses from each party to the other's submissions. The District Judge prepared his own Findings and Conclusions, ruled that the Petitioner failed to prove her claims by a preponderance of the evidence and dismissed the Complaint. The Appeal to the Second Circuit Court of Appeals affirmed the Judgment of the District Court.

After the decision of the Circuit Court, the Petitioner moved to vacate the District Court Judgment pursuant to Fed.R.Civ.P. 60(b)(3). That motion was denied.

Thus, the instant Petition for Certiorari.

It is respectfully submitted that the Findings and Conclusions of the District Court were not the result of any "clearly erroneous" mistake. The motion to vacate the Judgment was denied by Order dated May 13, 2010, based upon the failure of the Petitioner to demonstrate by "clear and convincing" evidence the existence of material misrepresentations sufficient to satisfy the standard for relief under Rule 60(b)(3).

The Judgment in favor of the Respondent should remain undisturbed. The denial of the Petitioner's

motion to set aside the Judgment was proper and the Petition for a Writ of Certiorari should be denied.

THE REASONS FOR DENIAL OF THE PETITION FOR WRIT OF CERTIORARI

REASON NO. 1

THE FACTUAL FINDINGS BY THE DISTRICT COURT SHOULD BE AFFIRMED SINCE THE PETITIONER HAS FAILED TO DEMONSTRATE THAT THEY WERE "CLEARLY ERRONEOUS" AS REQUIRED BY Fed.R.Civ.P. 52(a)(6)

On the appellate review of the findings of fact made by the District Court, the Second Circuit was aware of the standards established under Rule 52 of the Federal Rules of Civil Procedure. The applicable portions of Fed.R.Civ.P. 52 are:

> "**(a) Findings and Conclusions.**
>
> **(1) In General.** In an action tried on the facts without a jury or with an advisory jury, the court must find the facts specially and state its conclusions of law separately. The findings and conclusions may be stated on the record after the close of the evidence or may appear in an opinion or a memorandum of decision filed by the court. Judgment must be entered under Rule 58.
>
> **(6) Setting Aside the Findings.** Findings of fact, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must give due regard to

> the trial court's opportunity to judge the witnesses' credibility."

These standards were followed meticulously by the District Judge. After the parties submitted their proposed Findings and Conclusions, and their respective oppositions to the other's submissions, the District Judge prepared his own Findings dated February 27, 2009. They were substantiated by multiple references to the record of the trial and exhibits. After a recitation of the proceedings prior to trial, the District Judge made 27 separate Findings of Fact. Each contained references to the Affidavits submitted on behalf of the Petitioner, in lieu of her direct testimony, or, from submissions, or references to exhibits in the trial transcript. There were twelve separate findings of fact, with respect to the Respondent, with extracts quoted from the record, documents, evidence, or Affidavits submitted in lieu of direct testimony.

Based upon the standards of Fed.R.Civ.P. Rule 52(a), the Petitioner had to demonstrate that such findings were clearly erroneous in order to justify a decision to set them aside.

The trial was before the Court without a jury. Rule 52(a)(6) requires that due regard be given to the Trial Judge to assess the credibility of the witnesses who testified before him. The Circuit Court had before it the issue of whether the Findings by the District Court were "clearly erroneous". It affirmed the District Court, which was cognizant of the inconsistent statements by the Petitioner and her daughters, especially with regard to the date of the alleged rape. These inconsistencies were before the District Judge, as the trier of the facts. It was

incumbent upon him to deal with such a conflict in testimony.

The only evidence that an alleged rape took place was from the unsubstantiated and uncorroborated accusation by the Petitioner. There were no eye witnesses. Both of the daughters testified that they were not witnesses to any alleged rape of their mother by the Respondent. There was no documentation to corroborate the accusation of the alleged rape. Whether a rape occurred at all was questionable since the Petitioner telephoned her daughter, Irman Shoughi, on her cell phone, at about the time of the alleged rape and told her she needed to come home for dinner, since the Respondent wanted to have dinner that evening with the family. In fact, the family did have dinner with the Respondent later in the evening of the day of the alleged rape.

The findings of the District Court were consistent with the testimony and documentation presented, from which the District Judge concluded that the Petitioner failed to prove her claims by a preponderance of the evidence.

At no time, for weeks after the alleged incident, did the Petitioner complain that she was raped by the Respondent. When she appeared at the local police precinct a month later, she never accused the Respondent of rape. It was only after the Petitioner retained counsel that she filed a criminal complaint with the police. She did not claim rape, just "aggravated harassment' for an occurrence that allegedly took place on January 28, 2005.

The District Court rejected the testimony of Petitioner's expert witness, Dr. Katz. He submitted an Affidavit in lieu of direct testimony and asserted that the Petitioner experienced "an especially brutal

rape in 2005". In response to a question by the Court, Dr. Katz admitted that he did not know, of his own knowledge, whether or not the Petitioner was raped and that he had no knowledge of any rape, much less a "brutal rape," as he had stated within his Affidavit. In response to a question by the Court, he admitted having made the statement without foundation. Dr. Katz testified that the Petitioner appeared to have post-traumatic stress disorder which could have been the result of her relationship with the Respondent, in addition to, or, apart from, any particular episode with him. Dr. Katz did not examine the Petitioner until some three years following the alleged rape. He had no personal knowledge, nor had he ever seen any of the Petitioner's prior medical records, or even obtained her medical history. Dr. Katz's testimony was of no probative value and was not competent. He was a convenient medical witness available to do the Petitioner's bidding. The District Court was fully justified in giving his testimony little or no credence.

With all that was before the District Court, the Findings made by the District Judge were fully warranted and supported. The Petitioner failed to prove her *prima facie* case by a preponderance of the evidence.

To overturn findings of fact, Anderson v. Bessemer City, North Carolina, 470 U.S. 564, 105 S.Ct. 1504, 84 L.Ed.2d 518 (1985) is binding. The applicability of Fed.R.Civ.P. 52(a), and the criteria necessary to set aside findings of fact by a trial judge, were discussed. It recognized that findings shall not be set aside unless "clearly erroneous". When there is evidence to support it, the Appellate Court must find that, on the entire evidence, there is a definite and firm conviction that a mistake has been committed; United States v.

United States Gypsum Co., 333 U.S. 364, 395, 68 S.Ct. 525, 542, 92 L.Ed. 746 (1948). Applying the standard in that action, the Circuit Court could not reverse the findings of the trier of fact even if it would have decided the case differently. The function of the Circuit Court was not to decide factual issues *de novo*, Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 123, 89 S.Ct. 1562, 1576, 23 L.Ed.2d 129 (1969). As long as the account of the evidence by the District Court was plausible, the Court of Appeals could not reverse it, even though it may have been convinced, that had it been sitting as the trier of the fact, it would have construed the evidence differently; Inwood Laboratories, Inc. v. Ives Laboratories, Inc., 456 U.S. 844, 102 S.Ct. 2182, 72 L.Ed.2d 606 (1982); United States v. Yellow Cab Co., 338 U.S. 338, 342, 70 S.Ct. 177, 179, 94 L.Ed. 150 (1949); (Where there are two permissible views of the evidence, the factfinder's choice between them cannot be second-guessed).

The established rule is that special deference is to be paid to credibility determination by the trial judge, since the trial judge is in a position to best determine the veracity of the witnesses. This is the major role exercised by the trial judge, whose determinations should not be disturbed on an appellate review unless such a decision is clearly erroneous. Factual findings under the "clearly erroneous" standard - with its deference to the trier of fact - is the rule, not the exception; Anderson v. Bessemer City, *supra.*, at 575 of 470 U.S.; Wainwright v. Witt, 469 U.S. 412, 105 S.Ct. 844, 83 L.Ed.2d 841 (1985); (Only the trial judge can be aware of the variations in demeanor and tone of voice that bear heavily on the understanding of the listener and belief in what has been testified to). When a trial judge's Finding is based on his decision

to credit the testimony of two or more witnesses, each of whom has told a coherent and facially plausible story that is not contradicted by extensive evidence, that finding, if not internally inconsistent, can virtually never be clear error; Orvis v. Higgins, 180 F.2d 537 (2d Cir. 1950); C.F. United States v. Aluminum Co. Of America, 148 F.2d 416, 433 (2d Cir. 1945).

These same standards were applied by this Court in Amadeo v. Zant, 486 U.S. 214, 108 S.Ct. 1771, 100 L.Ed.2d 249 (1988). In a reversal of a Court of Appeals decision, which reversed a decision of the District Court, this Court in overruling the Eleventh Circuit stated, at page 223 of 486 U.S.:

> "It is well settled, however, that a federal appellate court may set aside a trial court's findings of fact only if they are 'clearly erroneous,' and that it must give 'due regard . . . to the opportunity of the trial court to judge of the credibility of the witnesses.'"
>
> ". . . We have stressed that the clearly-erroneous standard of review is a deferential one, explaining that '[i]f the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently.'" (citing Anderson v. City of Bessemer City, *supra.*, at 573-574 of 470 U.S.)

In the action at bar, the District Judge annotated each of his findings of fact with references to either sworn testimony or documentary evidence. While he was aware of the gross inconsistencies in the testimony of the Petitioner and her two daughters, it was obvious that the Findings and Conclusions were based upon a careful analysis of the evidence and testimony, giving the Petitioner the benefit of every doubt. With the complete lack of any documentation or corroboration that an alleged rape actually took place, the District Judge could only draw one conclusion. It was that the Petitioner failed to prove by a preponderance of the evidence that any rape had ever taken place. Without any extrinsic substantiation, or documentation, the District Court was justified in its conclusion that there was a failure of proof on the part of the Petitioner. Since the Petitioner went to the police, why did she not charge the Respondent with rape? The Petitioner claimed she was raped and the victim of violent conduct, but, there was no medical treatment, or any evidence of any alleged violence. There was no rape kit, no photographs or doctor's records. A rape victim would immediately call the police and an ambulance and would be immediately treated at a hospital, or by a physician. Here, there was no such visit, treatment or communication to a physician, hospital or the police! It is a logical conclusion that the Findings of Fact by the District Judge were justified, which gave rise to the determination that there was a failure of proof.

It is respectfully suggested that the admonition within the opinion in United States v. United States Gypsum Co., *supra.*, that unless an appellate court is left with the "definite and firm conviction that a

mistake has been committed," it must accept the trial court's Finding out of deference due the Trial Judge. There is no reason otherwise to disturb the Findings of the District Judge; Inwood Laboratories, Inc. v. Ives Laboratories, Inc., *supra*, 456 U.S. 844; Pullman-Standard v. Swint, 456 U.S. 273, 102 S.Ct. 1781, 1782, L.Ed.2d 66 (1982); Zenith Radio Corp. v. Hazeltine Research, Inc., *supra*, at 395 U.S. 100.

These same standards have been religiously and consistently followed in prior decisions from the Circuit Court, as in Ceraso v. Motiva Enterprises, LLC, 326 F.3d 303 (2003), where it relied upon, and cited decisions from this Court. In its citations to cases, the Circuit Court stated, at page 317, of 326 F.3d:

> "The district court's findings of fact after a bench trial are not to be overturned unless they are clearly erroneous. *See, e.g., Fed.R.Civ.P. 52(a); Anderson v. Bessemer City, 470 U.S. 564, 573-74, 105 S.Ct. 1504, 84 L.Ed.2d 518 (1985)*. This standard applies whether those findings are based on witness testimony, or on documentary evidence, or on inferences from other facts. *See, e.g., id. at 574, 105 S.Ct. 1504, Petereit v. S.B. Thomas, Inc., 63 F.3d 1169, 1176 (2d Cir. 1995)*. In reviewing findings for clear error, we are not allowed to second-guess either the trial court's credibility assessments or its choice between permissible competing inferences. *See, e.g., Anderson v. Bessemer City, 470 U.S. 564 at 573-74, 105 S.Ct. 1504*. Even if the

> Appellate Court might have weighed the evidence differently, it may not overturn findings that are not clearly erroneous. *See, id. at 574, 105 S.Ct. 1504.*"

Applying these principles to the District Court's Findings, this Court must conclude that the Findings were based upon the inconsistencies in the testimony of the Petitioner and her daughters, the lack of any corroboration, documentation, evidence, or action on the part of the Petitioner that confirmed that she had been raped. In addition, the phone records belied the truthfulness of Petitioner's allegations of rape. The only reasonable approach on this request for Certiorari is to deny the Petition.

In the action at bar, the Petitioner has not presented any evidence to support her request for Certiorari. The recriminatory statements which accused the Respondent of abusive conduct over a sixteen year period, of the Petitioner having been raped in New Jersey fifteen years earlier, of a claim that the Respondent never paid $80,000 to her, which she alleged was owed by him, and claims that the Respondent, his counsel, Dr. Shaw and Dr. Berger submitted forged documents to the District and Circuit Courts, were unsupported. Accusations by the Petitioner that the Respondent raped a fourteen year old while traveling on his brother's passport, of having laundered money, cheated on taxes, committed forgery, and against Dr. Berger that he changed her test answers, were all unsupported. They reflect anger and an emotional reaction towards the Respondent, rather than relevant factual statements to support Petitioner's arguments. It is manifest that

the Petitioner is not dealing with her anger in a rational manner. None of these accusations were substantiated, and thus were rejected by the District Judge and the Circuit Court. It is respectfully suggested that this Court should disregard such recriminatory accusations. They do not rise to the level of constituting credible evidence. The Petitioner has utterly failed to furnish any clear and convincing evidence to warrant the grant of Certiorari.

Even if this Honorable Court were to disagree with the findings of the District and Circuit Court Judges, under the standards promulgated pursuant to Fed.R.Civ.P. 52(a), unless a determination is made that the findings and conclusions were "clearly erroneous" they must be affirmed; Lopreski v. Terwilliger, 126 F.3d. 34, 38 (2d Cir. 1997). These standards of review have many precedents; Amadeo v. Zant, 486 U.S. 214, 108 S. Ct. 1771, 100 L. Ed.2d 249 (1988); Anderson v. Bessemer City, 470 U.S. 564, 573-576, 105 S. Ct. 1504, 1511-1512, 84 L. Ed.2d 518 (1985); Rogers v. Lodge, 458 U.S. 613, 102 S. Ct. 3272, 73 L. Ed.2d 1012 (1982); Pullman-Standard v. Swint, 456 U.S.273, 102 S. Ct. 1781, 72 L. Ed.2d 66 (1982); Berenyi v. District Director, 385 U.S. 630, 87 S. Ct. 666, 17 L. Ed.2d 656 (1966).

The issues on the appeal to the Circuit Court incorporated within the Petitioner's brief do not rise to the level of having demonstrated any "clearly erroneous" determinations by the District Court. The Petitioner was unable to prove by the preponderance of the evidence that she had a *prima facie* case of an alleged rape that took place on January 28, 2005, or January 27, 2005, or January 25, 2005. The determination of whether the Petitioner presented a *prima facie* case fell upon the District Judge. The

Petitioner was amply represented at the trial by two seasoned attorneys, who, despite their experience and reputation, were unable to present any more than they had available to try to reach the level of a preponderance of the evidence. There never was any! The Petitioner was unable to prove a *prima facie* case and has furnished no legal justification for disturbing the determination made by the District Court or the affirmance by the Circuit Court.

Based upon the foregoing, the Petition for Certiorari should be denied.

REASON NO. 2

PETITIONER FAILED TO MEET THE CRITERIA OF "CLEAR AND CONVINCING EVIDENCE" TO WARRANT VACATING THE JUDGMENT PURSUANT TO Fed.R.Civ.P. 60(b)(3)

Having failed to establish her claim at the trial, the Petitioner's Amended Complaint, which sought Eight Million Dollars based upon allegations that she was raped by the Respondent, was dismissed. Judgment was entered in favor of the Respondent. The Second Circuit affirmed the dismissal. Statements were made that the Respondent committed a fraud upon the Court and that both the Respondent and Jack S. Dweck, as his counsel, compounded the fraud by the submission of forged documents at the trial. The Circuit Court stated that if the Petitioner chose to, she could move under Fed.R.Civ.P. 60(b) to vacate the Judgment. That motion was presented to the District Court following

the affirmance by the Circuit Court and was denied. The Petitioner again failed to meet the prerequisites necessary to obtain such relief.

It appears from the Petition for Certiorari that the Petitioner has argued that the District Judge has committed error by the denial of her 60(b) motion and that she seeks a review by this Court of such denial. It is respectfully submitted that the Petitioner is not entitled to any review since the standards for relief from a final Judgment have not been met. The movant must establish fraud by clear and convincing evidence; King v.First American Investigations, Inc., 287 F.3d 91 (2nd Cir., 2002), cert. den. 537 U.S.960, 123 S.Ct. 393, 154 L.Ed.2d 314 (2002); rehearing den. 537 U.S. 1098, 123 S.Ct. 717, 154 L.Ed.2d 651 (2002); Madonna v. United States, 878 F.2d 62, 65 (2d Cir., 1989).

A similar holding is Anderson v. Cryovac Inc., 862 F.2d 910 (1st Cir., 1988), cert. den. 498 U.S. 891, 111 S. Ct. 233, 112 L.Ed.2d 193 (1990), where it was stated that "the moving party must demonstrate misconduct – like fraud or misrepresentation – by clear and convincing evidence, and must show that the misconduct foreclosed full and fair preparation or prosecution of its case...", citing In re M/V Peacock, 809 F.2d 1403, 1404-5 (9th Cir. 1987); Stridiron v. Stridiron, 698 F.2d 204, 207 (3rd Cir., 1983); Square Construction Co. v. Washington Metropolitan Area Transit Authority, 657 F.2d 68, 71 (4th Cir., 1981); Rozier v. Ford Motor Co., 573 F.2d 1332, 1339 (5th Cir., 1978).

In the action at bar, the Petitioner's attorneys conducted very extensive discovery and represented her at the trial. The District Judge was very liberal in allowing the Petitioner great latitude in the

presentation of her evidence. He permitted two amendments (over objections) by the Petitioner to change the date of the alleged rape from January 28, 2005, as pleaded in the original Complaint, to January 27, 2005 in the Amended Complaint, to January 25, 2005, by oral request, on the eve of trial. At the trial, both the Petitioner and her two daughters disavowed their previously sworn statements and testimony as to the date of the alleged incident. Then, in their direct testimony submissions at the trial, the District Judge allowed them to testify that the alleged rape took place on the day before the Respondent left for Dubai, whatever that date might have been.

The District Court had before it the evidence that the Petitioner never reported to the Police that the Respondent had allegedly raped her. She only reported harassment.

The Petitioner did not proffer any newly discovered evidence to the District Court. The same arguments which she presented to the District Court at the trial, were made by her to the Circuit Court. She then submitted the same material to the District Court in her Rule 60(b)(3) motion, to no avail. What she has now offered to this Honorable Court is no different! It is a re-hash of her accusations and recriminations against the Respondent and includes an attack upon counsel as well.

What the Petitioner seeks in her Petition for Certiorari does not rise to the level necessary to warrant review by this Tribunal. As was stated in the Opinion of the First Circuit in Anderson v. Cryovac, Inc., *supra*, at page 924:

> "Verdicts ought not lightly to be disturbed, so it makes very good sense

> to require complainants to demonstrate convincingly that they have been victimized by an adversary's misconduct."

Unquestionably, the burden of proving fraud and misrepresentation under Fed.R.Civ.P. 60(b)(3) requires that the evidence be clear and convincing; Brown v. Pennsylvania Railroad Company, 282 F.2d 522 (3rd Cir., 1960) cert. den. 365 U.S. 818, 81 S. Ct. 690, 5 L.Ed.2d 696 (1961); Atchison, Topeka & Santa Fe Ry. Co. v.Barrett, 246 F.2d 846 (9th Cir., 1957); Assmann v. Fleming, 159 F.2d 332 (8th Cir., 1947).

The Petitioner has presented no evidence with the instant Petition that was not presented, reviewed and considered by the District Judge at the trial, the Circuit Court on appeal and the District Judge on her motion for relief under Fed.R.Civ.P. 60(b)(3). Naked and unsupported accusations that the Respondent was engaged in money laundering, forgery, use of false passports and the like were unsupported. Claims of misconduct by Dr. Berger in the conduct of psychological tests, and of attorney Dweck having submitted forged documents to the District Court were completely unsubstantiated. They must be disregarded. Under Rule 60(b)(3), the Petitioner was required to present within her motion, ". . . clear and convincing evidence of material misrepresentations," Fleming v. N.Y. University, 865 F.2d 478, 484 (2nd Cir., 1989). To prevail, "a movant must show that the conduct complained of prevented the moving party from fully and fairly presenting his case," State St. Bank & Trust Co. v. Inversiones Errazuriz, Unitada, 374 F.3d 158, 176 (2nd Cir., 2004), cert. den. 543 U.S. 1177, 125 S. Ct. 1309, 161 L.Ed.2d 161 (2005).

Petitioner had a full and fair opportunity to present her case. Whatever evidence she presented did not measure up to a preponderance sufficient to sustain her allegations.

The Petitioner has asserted that the phone bills used on cross-examination by the Defendant were forged. She has failed to present any documentation or evidence sufficient to set aside the Judgment. Merely to argue that a document is a forgery is insufficient as a matter of law! It does not begin to approach the requirement of clear and convincing evidence as mandated by the outstanding precedents. Since the Petitioner had the phone records in her possession (as delivered to her counsel) prior to trial, she had the opportunity to demonstrate any alleged forgery. She failed to do so. Under these circumstances, she has no cause to complain, had no basis to vacate the Judgment of dismissal, and has no basis to impose upon this Court for Certiorari. The rule of law is addressed in Entral Group International, LLC v. 7 Day Cafe & Bar, et al., 298 Fed. Appx. 43 (2nd Cir. 2008).

The Petitioner has failed to set forth any basis that she was unable to have a fair trial. She was not impeded or prevented from presenting any evidence, any witness or any exhibits in the proof of her case. She was not limited in cross-examination of the Respondent or his expert. She had the benefit of an appeal which affirmed the decision and findings of the District Court. She cannot prevail as a matter of law as required by Fed.R.Civ.P. 60(b)(3), predicated on fraud or a fraud on the Court; State St. Bank v. Errazuriz, *supra*, at 176.

The Petitioner has asserted that a fraud on the Court has been engaged in by the Respondent. This is

limited to a charge of fraud which seriously affects the integrity of the normal process of adjudication; Gleason v. Janorucko, 860 F.2d 556, 559 (2nd Cir., 1988); Kupferman v. Counsel Research & Mfg. Corp., 459 F.2d 1072, 1078 (2nd Cir., 1972). (This encompasses a fraud which defiles "the Court or is a fraud perpetrated by officers of the Court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases.")

The Petitioner has not submitted anything in her Petition which demonstrates any false representations of fact or law by the Respondent, or his attorneys. The Petitioner has disputed the evidence at the trial and upon the appeal. This is exactly the type of dispute of "what is expected in the normal adversary process"; Weldon v. United States, 225 F.3d 647 (2nd Cir., 2000). This was discussed in a later decision by the Circuit Court in King v. First American Investigations, 287 F.3d 91 (2nd Cir., 2002), cert. den. 537 U.S. 960, 123 S. Ct. 393, 154 L.Ed.2d 314 (2002), rehearing den. 537 U.S. 1098, 123 S. Ct. 717, 154 L.Ed.2d 651 (2002). Since the Petitioner has failed to demonstrate that the Respondent or his attorneys have submitted false or forged documents, or that the Respondent or his attorneys have inserted bogus documents into the record, her Petition must fail; Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 US 238, 64 S. Ct. 997, 88 L.Ed. 1250 (1944); overruled on other grounds, Standard Oil of Cal vs. United States, 429 US 17, 97 S. Ct. 31, 50 L.Ed. 2d 21 (1976); Oxxford Clothes XX, Inc. v. Expeditors International of Washington, Inc., 127 F.3d 574, 578 (7th Cir., 1997).

There has been no clear and convincing evidence presented, as required by the case law. Under these

circumstances, the Petition for Certiorari should be denied.

CONCLUSION

BASED UPON THE OUTSTANDING AND CONTROLLING LEGAL PRECEDENTS, THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE DENIED.

Dated: New York, New York
August 9, 2010

Respectfully submitted,

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Jack S. Dweck
On the Brief

170 (4)

NO. 10-127

IN THE
SUPREME COURT OF THE UNITED STATES

IRANDOKHT BAHRAMI

PETITIONER

VS.

MOHAMMAD ALI SAADAT KETABCHI, ALSO KNOWN AS MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI & HOMAYOUN KETABCHI

RESPONDENT

ON PETITION FOR WRITE OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

REPLY BRIEF TO RESPONDENT'S OPPOSITION

IRANDOKHT BAHRAMI
400 EAST 57TH STREET APT 10B
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I
PARTIES TO THE PROCEEDING

The following identifies all of the parties appearing I here and before the United States Court of Appeals for the Second Circuit:

Irandokht Bahrami is the Petitioner here and was the appellant below.

Mr. Mohammad Ali Saadat Ketabchi is the Respondent here and was the appellee below

The Dweck Law Firm, LLP was the Respondent lawyer in Court of Appeal, as well as District Court.

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STATEMENT OF CASE

I received Mr. Dwek's 21 pages with no Appendix Respondent's opposition filed August 18 2010. Mr. Dweck ignored me and didn't send me a copy of the Waiver even though he became member of the Bar of US Supreme Court in August 16 2010.

Mr. Dweck said, I brought an Eight Million Dollars allegation. **In April 14 2005** my lawyer filed an allegation with District Court **without** including any **monetary damages**, simply for I and my family's safety. By law of District Court in **July 19 2005** my lawyer filed **Plaintiff's Amended Verified Complaint** and **included** the **monetary damages**.

Appendix B pages 66 to 69, I combined the two allegations, April 14 2005 with no monetary damages and July 19 2005 with monetary damages, under April 14 complaint.

In **August 12 2005** Mr. Ketabchi brought an **EIGHT MILLION DOLLARS counterclaim**. I was raped, treated like an animal who lived in cage for a very long time, treated real bad that's why I became strange to outside world, like an abuse animal, and I was raped again in January 25 2005, and he attempt to rape my daughter Atosa before he raped me in January 25 that's why I didn't care if I be killed anymore just didn't want the same thing that happen to me to be repeated for my daughter, otherwise, January 25 2005 rape was not the first neither the second time I was raped by Mr. Ketabchi.

Mr. Ketabchi also was represented by two set of lawyers first set was a group of five lawyers very experienced and well known from a very established firm working for him, all the Depositions, Declarations, and Affidavits were taken by the first set of Mr. Ketabchi team lawyers but since Mr. Ketabchi based his case on lies, fraud and forged they quit on him. Then Mr. Dweck took over Mr. Ketabchi's case and he was fraud enough to go with Mr. Ketabchi's forgeries and submitted his fraud and

forgery to all the Courts in my case. My lawyers Mr. Zilberg and Mr. Certain in District Court are new lawyers in their early thirties and I don't call them experienced, also in Circuit Court I was a Pro Se.

Mr. Dweck claims in page one "since their sexual relationship was always consensual " again Mr. Dweck started playing monopoly with every ones mind I have submitted the Rape Transcript to District Court in May of 2005 licensed Translator Mrs. Zahregian and Notarized by Mrs. Garcia.

Mr. Dweck's claims in page one "the Petitioner testified the alleged rape was January 27 2005". Also, in page 2 paragraph three " the two daughters disaffirmed these statements on the eve of trial and submitted new sworn statements". I and my daughters always said that I was raped one day before Mr. Ketabchi left to Dubai even though I was confused about the rape date since I never thought I be able to go forward due to fear of Mr. Ketabchi and cultural matter. The **Trial was in October 14 2008 my Deposition** was in **Nov 4 2005** and **my two daughter signed Declarations in February 2006** none of us change the rape date in last minute before the Trial again.Mr. Dweck is playing his monopoly.

Deposition of Ms. Bahrami dated Nov 4 2005 lower court record page 33 lines 10 to 22, 25 page 34 lines 2, 5 to 8

Q: What were you wearing on January 27th?

T-shirt, no tank top, a black tank top and he wasn't supposed to come that day because he was supposed to pack his luggage.

Q: Where was he going if you know?

A: Dubai the next day and I supposed to go a few days later.

A: He called Amin, the same ticket agent that Mr. Ketabchi told me to go and pick up my ticket on Nov 11 1999 to London. (in that trip Mr. Ketabchi used his brother Mr. Fred Ketabchi's American Passport to travel)

A: And then he burned my breast(Bahrami Deposition page

14 line2)

A: And until the last minute when he went to the airport, he called, he would pass on the receiver to this brother Fred and I called downstairs to the doorman, you can ask them. If you ever see Mr. Ketabchi again, do not let him in I put in a notice because I was afraid Mr. Ketabchi was lying and hiding somewhere(Bahrami Deposition page 90lines2 to 10)
Q: When was the last time you had seen him before January 27th of 2005?
A: 25 or 24, I don't recall. We went to restaurant and we went to theater on 32nd and then in the morning he came (Ms. Bahrami Deposition, page 36 lines 2, 3, 7 to 11)
A: On January 22nd he was there from six o'clock till late and he had done some grocery shopping for me so I wouldn't go outside and see anybody.(page 36 lines 14 to 19)
A: Almost everyday I saw Mr. Ketabchi in January 2005(page 36 lines 21 to 25)

I saw Mr. Ketabchi in January 22, 24 and 25 everyday he controlled me specially when he was leaving the country he controlled me even more. Mr. Ketabchi took me to movie and restaurant in January 24 2005 then the next day in January 25 2005 I didn't think he will come by because he was leaving the next day to Dubai but he came to my apartment and raped me. All alone I was confused about the rape date but we always said rape happen one day before Mr. Ketabchi left to Dubai.

A: January 26, I swear, because I was, I had been late, I don't know, maybe 25, 23; I don't know--I had been late, I was scared, I had to take the elevator, I started running down, it was January 25, and it was raining, maybe January 23. I don't know which day anyway. It was one of these days(Bahrami Deposition, page 155 lines 6 to 15)

Despite the fact, Mr. Ketabchi's lawyer repeatedly said, I was raped in January 27 or 28 or wishes to put certain time for rape

forcefully in my Deposition, I was just explaining the rape I really don't know what time rape happen.

Declaration of Irman dated February 2006 page 2 (lower court record) Irman said" **In late January 2005 I had dinner with my mother, sister and Mr. Ketabchi. I don't recall the exact date of the meal but I know, it was one day before Mr. Ketabchi traveled to Dubai"**
Declaration of Atosa dated February 2006 page 2 (lower Court record) Atosa said" **I believe the actual date was January 25 2005", " He was about to depart for Dubai the following day".**

Mr. Ketabchi said at Trial in 2008: I don't remember two years ago. January 23 or 25, one day I was at her home.(Trail Transcript page 136 lines21 to 23 Appendix B)
My two doormen signed two letters Appendix B pages 169 and 170"**Sam Gbajumo, on January 25 2005Mr. Ketabchi came to the building, took elevator and went to Ms. Bahrami's Apartment. In January 26 2005 Ms. Bahrami called down stairs and asked us to leave a note in our book, not to let Mr. Ketabchi in ever again".**

My Deposition dated Nov 4 2005, which I talk about rape of January 25 2005
A: He started, he closed his fist and he started at my head but then he took his belt out, all my body was black, my neck, my back, my thighs, then he threw me down on the floor and raped me, not once. I was beaten up a lot and I had bleeding(Bahrami Deposition page16 lines 3 to 7, 17, 18)
I took no picture of my bruises but one day before my Deposition after nine months, with advise of my lawyer my daughters took picture of my burn mark, even though it was not much left.
Q: It's your testimony that he bit you front and back and he

bit you on your private parts?
A: And my thighs, he always does that every time he rapes. I'm always ashamed to take a shower. I always feel pain.
Q: How long did the biting take?
A: Which woman measure the time when she is beaten or raped.(Bahrami Deposition, page 27 lines11 to 24)
A: I was raped three times with force, I don't want it and he beats me up (Bahrami Deposition page 29 lines 2, 6,7)
A: His eyes start turning like a pendu, just very irregular like a clock(page 29 lines24, 25) He starts yelling and beating me up and I say something he doesn't respect it he beats me even worse until I start bleeding then he becomes happy and he always says you don't respect me you order me around Bitch.(page 30 lines 6 to 11) I was like a person who was in coma because I had been beaten up so much and I was in so much pain and I never had the right to go to hospital or call the police because I would be killed(page 31 lines 2 to 4 and 10 to 12)

Mr. Dweck claimed in page 2 that I was raped at 5:00 o'clock I didn't check the clock when I was raped I said I was raped late afternoon.
Ms. BAHRAMI Deposition dated November 4 2005page 7 line 25 page 8 line 2
Q: Do you recall the time of rape?
A: As I said I did not look at the time at that moment.
Q: Do you know the time of rape?
A: I don't. I was very distressed. He pulled out half of my hair I had pain all over my body and I feel scar in my heart in all my being and I will always have it (Bahrami Deposition page 28 lines3 to 7)

Mr. Ketabchi's 195 pages of Deposition dated October 21 2005, Mr. Ketabchi's responded to 98% of the questions **" I don't recall", " I have to check" and "I don't remember".**
Q: Did you have sex with Plaintiff in 2005 and what month?

A: Yes in January(Mr. Ketabchi's Deposition page 154 lines 12 to 17)
Q: Was it more than one time and in what address?
A: Yes more than once, in her apartment.(Mr. Ketabchi's Deposition, page 154 line 25, page 155 lines 3, 15 to 17)
Mr. Ketabchi said at Trial in 2008: I don't remember two years ago. January 23 or 25, one day, I was at her home.(Trail Transcript page 136 lines21 to 23 Appendix B)

I was raped in January 25 2005 and I went through a lot of abuse, physically and mentally, isolation, and constant harasses. I was living in jail and Mr. Ketabchi was my prison guard. I had no control of my life and it all started by Mr. Ketabchi raping me the first time.

A: I was so horrified everyday over and over he was threaten me, and even now I don't know whether he's going to kill me or not, and he threatened that his brother Saeed would kill me by truck or accident.(Bahrami Deposition page 39 line2 to 7)
Woman: But don't forget you kept me with force, and harassing.(Rape Transcript Page 7 line 8,9 Appendix B)

A: He had four people following me all the time. I don't know who he would send. I did not have the right to look because he would say you want to look at other men. (Bahrami Deposition page 40 lines 22,23 page 41 lines3 to 6)

Declaration of Atosa dated February 2006: Mr. Ketabchi's relationship with my mother was very abusive he routinely pull my mother's hair in our presence and slapped her.
Declaration of Irman dated February 2006: Mr. Ketabchi abused my mother, I was witness to Mr. Ketabchi's physically violence towards my mother. I saw him pull her hair and slap her face. This happened a lot. He was emotionally and verbally abusive towards her. She often cried.

Page 2 Mr. Dweck claimed "on January 27 2005, Mr. Ketabchi was in transit to Dubai and his flight had stopped in Frankfurt, Germany on that date". Please refer to my Petition pages 13, 14.

Mr. Dwek claims in page 7 " she did not claim rape, just aggravated harassment"(Please refer Petition pages 3 to 8) **Officer Garofalo's Deposition talks about the first meeting February 16 2005**(pages 20 Appendix B) two months before I hired any lawyer on my case.
"Now, I have to try to convince a victim who is not born here and is not used to our culture that It's Okay to be treated like a lady and **no one has a right to especially a man does not have a right to beat you , rape you or abuse you."**
Officer Garofalo in her Deposition regarding the Aggravated Harassment said,
" **In Miss Bahrami case she was being victimized not only physically but also through phone calls".(page 16, Appendix B)**

The two obvious fraud and forged phone statements, forged by Mr. Ketabchi rejects all arguments which Mr. Dweck made in pages 2 and 3 of his Respondent Opposition. Mr. Dweck still bases his arguments on fraud and forged phone statements. Please refer to my Petition page 9 to 12 and 25 to 26 (Appendix B page 164 t0 168)

Mr. Dweck in page 2 said I made a call from my cell phone to Mr. Ketabchi's home in New Jersey for 14 minutes. Please refer to my Petition page 9.

Mr. Dweck claims in page 13 "**Dr. Show and Dr. Berger** submitted forged documents to District" Mr. Dweck started playing monopoly by saying Dr. Show, Dr. Show is my daughters doctor. **Mr. Dweck changed the name of Dr. Surur to Dr. Show** since I put phone number of Dr. Surur in my Petition and Dr. Surur said if this lawyer added any fake letters from my side I will bring a law suit(Petition page 20).

Dr. Robert H. Berger's resume (lower court record) noted that Dr. Berger was a Director of Psychiatric Department in Bellevue Hospital between years of 1996 to 2004. Bellevue Hospital said, **Dr. Robert Berger with different license number** as Dr. Robert H. Berger was working there. After testing about 15 answers were changed in answering sheet please refer to my Petition pages 16 to 18.

Dr. Craig L. Katz Honor student graduated from Harvard University, working for one of most prestigious Hospitals in NYC, Mount Sinai saw me for about 60 hours. Dr. Berger saw me for 8 hours but between me taking exam and him being busy on the phone and smoking cigarette **we had only 30 minutes of conversation that's why Dr. Berger had to ask the Defendant lawyer what to put in his report**.

Mr. Dweck said in page 13 "Mr. Ketabchi raped the fourteen years old while traveling on his brother's passport". Mr. Dweck mixing up Mr. Ketabchi's crimes to confuse everyone as he did in all courts. Mr. Ketabchi raped the 14 years old kid and Mr. Ketabchi used his brother's American passport happened in two different timing.**(Petition page 15)** If you check **Mr. Ketabchi's American Passport for Nov 11 1999 it contain no stamp from Heathrow England but my American passport and Mr. Fred Ketabchi's American Passport were stamped in Heathrow England in Nov 11 1999. I was witness of that.**

I tape recorded Mr. Ketabchi admitted that I was not his only victim. Mr. Ketabchi also **raped a 14 years old boy**(Mr. Ketabchi attacked us and raped us against our will and at Trial Mr. Ketabchi was asked by Mr. Certain, if he raped a 14 years old boy, Mr. Ketabchi replied" **That was a set up**" which that line was disappeared from Trial Transcript.

Mr. Ketabchi took me to Bank **in London in Nov 1999 Bank asked him if he was American Citizen and he said no Iran even though he was US citizen only to do money laundry.**

In page 9 Mr. Dweck said, Judge Berman found me not credible and called my daughters not truthful. I was discriminated by Judge Berman based on favorism to Mr. Dweck. I had no right at Trial I was treated like a victimizer and Mr. Ketabchi was treated like a victim. My lawyers were shut up, my doctor, my witnesses and me were not given permission to talk.

My rape tape was not allowed to be played by order of Judge at Trial. Mr. Ketabchi's extremely abusive tone of voice in that tape, shouting and screaming, his controlling personality and the extreme time curfew, harasses and punishment which he set for me for being a minute late from my time curfew, all would show that I was living in Mr. Ketabchi cage. That tape is an evidence and should have been documented at Trail. The tape is an example of tiny drop in the ocean. I went through a lot more than that everyday of my life for 16 years. My Trial was not a Trial it was a game. Mr. Dweck was ruling the whole court at Trial, submitted all the fraud forgery and misconducts.

I believe Mr. Dweck took this case very much personal. He violated the rule of conduct by bring fraud, forged, mislead, misrepresentation and misconduct to my case and stepped on the right of innocent and a victim which is me.

CONCLUSION

I had no right at Trail neither my motion60b3 in Judge Berman's court, it was a pure discrimination based on favorism, whatever Mr. Dweck asked Mr. Dweck got. I lost all my constitutional rights due to fraud, forged and misleading which Mr. Ketabchi did and Mr. Dweck submitted. I am a true victim of rape of January 25 2005 who lost her rights and I wish for justice.

Thank you,

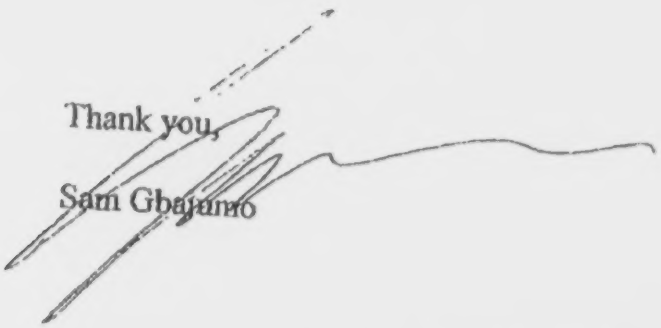
Irandokht Bahrami

APPENDIX INDIX D

SUBJECT	Page
1- Picture of Mr. Ketabchi taken in 1997, Passport number 093880130	1
2- Testimony of my doorman Mr. Sam Gbajumo, regarding January 25 2005	2

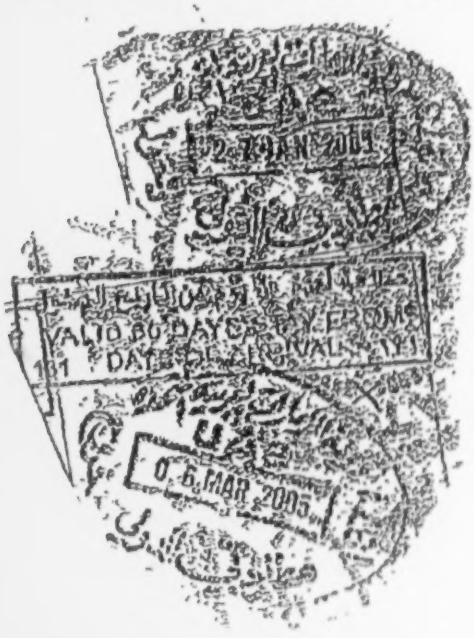
My name is Sam Gbajumo, and I work in 400 East 57th Street, New York, NY 10022, Ms. Bahrami is one of the tenants in this building, on January 25 2005, Mr. Ketabchi, Ms. Bahrami's husband came to the building with some shopping bags, he took elevator and went upstairs, to Ms. Bahrami's apartment as usual.

In January 26 2005, I was working again and Ms. Bahrami called downstairs and asked us to leave a note in our book, not to let Mr. Ketabchi in 400East 57th Street building ever again.



Mr. Dweck loves to play monopoly, like saying Mr. Ketabchi had two days stop in Frankfurt Germany even though Mr. Ketabchi's American passport(issued in 1997 to 2007)never stamped in Frankfurt but Dubai. Or, when I was in Second Circuit Mr. Dweck gave wrong address and phone number of his office to Court of Appeal so I would send my brief to the wrong place.

This picture of Mr. Mohammad Ali Sadat Ketabchi was taken in April of 1997, passport number 093880130. Mr. Ketabchi's American passport contains no stamp from Frankfurt German because he never had any stop there, otherwise it would be stamped, it is mandatory. But it was stamped in Dubai when Mr. Ketabchi reached there in January 27 2005. Also, it was stamped again in Dubai when Mr. Ketabchi left Dubai in March 6 2005.



Mr. Ketabchi's American passport was issued in May 1997 and the expiration date for that passport was May 2007.

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(5)

NO. 10-127

IN THE
SUPREME COURT OF THE UNITED STATES

IRANDOKHT BAHRAMI ALSO KNOWN AS IRENE BAHRAMI

PETITIONER

VS.

MOHAMMAD ALI SAADAT KETABCHI, ALSO KNOWN AS MOHAMMAD KETABCHI, HOMAYOUN SAADAT KETABCHI & HOMAYOUN KETABCHI

RESPONDENT

PETITION FOR REHEARING

IRANDOKHT BAHRAMI
400 EAST 57TH STREET APT 10B
NEW YORK, NY 10022
917-225-0072

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1- There are Erroneous Errors, and there are Affidavits which are posted in the last two pages of the Second Booklet. Affidavits are Opinion of two Experts which proves that fraud and forgery was done by Mr. Ketabchi(Second Booklet was submitted along with my Petition), that's why the Judgment of District Court Must Be Changed, as required by Fed.R.Civ.P.52(a)(6).

2- Circuit Court acknowledge the Fraud, forgery, misrepresentation, mislead and misconduct without the existence of Affidavits of Experts. Since the Affidavits of Experts submitted to US Supreme Court, there are two permissible views of the evidence, the fact finder's choice between them can not be second-guessed. By **Inwood Laboratories Inc v. Ives Laboratories, Inc 456US 844**. The Judgment of Circuit Court must be changed.

3- Case numbers listed in the Petition for Rehearing **Anderson v. Bessemer City. North Carolina, 470 US.564, 105 S. Ct. 1504, 84L.Ed(1985), Fed.R.Civ.P.52(a)(pages 2 to 5)** proves, when there are Erroneous Errors and there are Experts Opinion that proves Erroneous Error happened, the Judgment on the case must be changed. Since the Defendant fraud and forged the statements and there are "Clear and Convincing Evidence" the judgment on Fed.R.Civ.P.60(b)(3) must be changed.

CONCLUSION	7-8

TABLE OF AUTHORITIES

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Amadeo v. Zant 486 US 214
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Entral Group International, Llc v. 7 day Café & Bar, et al
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Inwood Laboratories, Inc v. Ives Laboratories Inc 456 US 844
King v. First America Investigations Inc. 287 F.3d 91
Kupferman v. Counsel Research & Mfg. Corp459 F.2d 1072
Lopreski v. Terwilliger 126 F.3d 34
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Square Construction Co v. Washington Metropolitan Area Transit Authority 657 F.2d 68
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United States v. United states Gypsum Co 333 US 364
United States v. Yellow Cab Co 338US 338
Wainwright v. Witt 469 US 412
Weldon v. United States 225 F.3d 647
Zenith Radio Corp v. Hazeltine Research Inc 395 US 100

STATUTES

Federal Rules of Civil Procedure
Fed. R.Civ.P.52(a)
Fed. R.Civ.P.52(a)(6)
Fed. R. Civ.P.60(b)
Fed. R. Civ.P.60(b)(3)

STATEMENT OF THE CASE

On October 4 2010, I received the results of the US Supreme Court regarding my Petition, my case was denied. In my booklets to the US Supreme Court, **new evidences submitted, and Signed Affidavits of two phone experts were posted in the last two pages of Second Booklet(proven fraud) Experts Opinion was, not only Mr. Ketabchi fraud and forged his only submitted phone statement to the case but also he fraud and forged my landline statement as well, only to cover up for the rape of January 25 2005(Experts Affidavits were never submitted to the District neither Court of Appeal, it was only submitted to the US Supreme Court, and proves that Erroneous Error happened)**. Isn't that true with having **Opinions** of **Experts** regarding the proven fraud which was done by the Defendant, the Supreme Court changes the judgment. My request is based on all the evidences submitted in my Three Booklets(**My Petition, Reply Brief, and Second Booklet)** and based on the Affidavits of two experts regarding Mr. Ketabchi fraud and forged the phone statements(Erroneous Error) the judgment on my case must be changed with regard to all the legal cases noted in this booklet, to the innocent and the victim side.

Mr. Ketabchi raped me in January 25 2005, but the whole thing started when he raped me the first time(Mr. Ketabchi admitted to this act in a tape, that's why Judge Berman based on favorism to Mr. Dweck did not allow my lawyers to play that tape at the Trial, it would be documented, the way Mr. Ketabchi was shouting, cursing and admitting to the rape, also, admitting to the rape of a little boy, and harassing me like crazy.
Mr. Ketabchi has sadistic behavior and moods, when he goes in to those Sadistic moods, he becomes dangerous and attacks. I also was raped by Mr. Ketabchi in 2004, prior to rape of January 25 2005, which I called Dr. Goldberg, Oncologist/Gynecologist in Bronx and said I have been raped by my husband(Mr.

Ketabchi)

In January 2005, Mr. Ketabchi attempt to rape my daughter Atosa right in front of my eyes, it was closes to come to actual rape. I hated Mr. Ketabchi even more, and when Mr. Ketabchi came to my apartment on January 25 2005, I refused to have anything with him and he raped me, burned my breast and hit me real bad(Please refer to my Petition, Second Booklet and Reply Brief to Respondent's opposition).

Senator Monserrate hit his girl friend, since she got media and public support, the legal system is putting Senator Monserrate in jail for at least 20 years. My fault was not getting public support, because I am a Middle Eastern woman from a tight culture, but now, because of the safety of my family and myself, I will go to media and public. Since Mr. Ketabchi always harassed to kill me and my family(it is in the tape), I know he will send some one to kill us, and I will not wait for that.

Before, I was like a slave in Mr. Ketabchi's prison, now I am different, since 2006, I became Honorable Chairman in all Presidential Dinner Parities, Honorable Chairman in Presidential Convention, Republican Presidential Delegate and much more, and I will not let Mr. Ketabchi to kill me and my family, then leave the country with some one else's American Passport.

THE REASONS FOR REHEARING

Anderson v. Bessemer City. North Carolina, 470 US564. Pullman Standard v. Swint 456 US 273. Inwood Laboratories, Inc. v. Ives Labratories, Inc. 456 US 844, Wainwright v. Witt, 469 US 412, Lopreski v. Terwilliger 126 F3d 34, Amadeo v. Zant 486 US 214, Rogers v. Lodge 458 US613, Pullman Standard v. Swint 456 US 273, Berenyi v. District Director 385 US630. Fleming v. NY University. State St. Bank & Trust Co v. Inversiones Errazuriz, Unitada. Hazel-Atlas Glass Cov. Hartford Empire Co. Standard Oil of Cal vs. United States. Oxxford Clothes XX Inc v. Expeditors International of Washington

Inc. Gleason v. Janorucko. Kupferman v. counsel Research & Mfg. Corp. Under the rule of law Entral Group International, LLC v.7 Days Café & Bar, et al 298Fed. Appx43(2nd Cir. 2008).

All these laws proven that if there are **CLEARLY ERRONEOUS ERROR THE JUDGMENT MUST BE CHANGED**. Since the fraud in my case is very much intentional (Erroneous Error) and forgery was done by Mr. Ketabchi, the judgment on my case must be changed **(Signed Affidavits from two phone experts submitted to US Supreme Court proves that intentional fraud and forgery happened on my case(Erroneous Error) and posted in the last two pages of the Second Booklet. These Affidavits were never submitted to any other courts but US Supreme Court . The opinion of the Experts proves that Mr. Ketabchi fraud and forged mine and his phone statements. Based on the Experts Affidavits the judgment of District court must be changed.**

Zenith Radio Corp v. Hazeltine Research, Inc 395 US100 Circuit Court acknowledge the misrepresentation, mislead and misconduct, fraud and forgery(Erroneous Error) on my case but in the absence of Experts Opinion, Circuit Court could not change the judgment on my case. **Inwook Laboratories, Inc v. Ives Laboratories, Inc 456 US 844, United States v. Yellow Cab Co 338 US338, Ceraso v. Motida Enthrprises LLC 326.** To US Supreme Court Affidavits of Experts which proves that fraud and forgery was done by Mr. Ketabchi submitted **and for that reason the judgment of Circuit Court must be changed**. In Circuit Court, there were two permissible views of the evidences. But now, as requires by the case law the facts finders choice must be in the Phone Experts side, and the Judgment on my case must be changed and my case shouldn't be denied.

King v. First American Investigations. Inc. Madonna v. United States 878 F2d 62, in my motion 60b3, in judge

Berman's judgment, reason for not changing his decision was" **in the absence of an affidavit…or other competent evidence on these issues, this court is unable to find that the documents should be considered…intentional forgeries" (Appendix C page 6). To US Supreme court I have submitted two Affidavits from phone Experts that FRAUD AND FORGERY(Erroneous Error) was done by Mr. Ketabchi and for that reason the judgment on my case must be change, anything otherwise is unconstitutional(the last two pages posted in Second Booklet).**

In re M/V Peacock, Stridiron v. Stridiron, Square Construction Co v. Washington Metropolitan Area Transit Authority, Rozier v. Ford Motor Co. The misconduct, misrepresentation, forgery and fraud(Erroneous Error) on this case was proven in my Petition and the Second Booklet. The Affidavits of the two experts, **which was only submitted to the US Supreme Court (not District or Court of Appeal)**proves that fraud and forgery(Erroneous Error) happened in my case by Mr. Ketabchi to cover up for the rape of January 25 2005, and Mr. Dweck misconduct the whole Trial by questioning from the fraud and forged phone statements to mislead every one at the Trial.

Weldon v. United States, 225 F.3d 647 Mr. Dweck submitted the fraud and forged phone statements with the knowledge of the fraud and misrepresented the whole Trial. The fraud is proven(Signed Affidavits of two Phone Experts, posted in the last two pages of Second Booklet)so as the misrepresentation by Mr. Dweck.

Brown v. Pennsylvania Railroad Company, Atchison, Topeka & Santa Fe Ry. Co. v. Barrett246F2d846, Assmann v. Fleming. Since fraud and misrepresentation in this case are proven.

Mr. Ketabchi used his brother's American Passport to Travel, money laundry and did forgery. The most convincing evidence

was Mr. Ketabchi admitting to the acts of him using his brother's American Passport(Mr. Fred Ketabchi) at the Trial, plus, Mr. Ketabchi took me with him in that trip and I saw him using his brothers American Passport with my own eyes. Also, in the same trip in London, he did money laundry in front of my eyes .

Fed.R.Civ.P.52. Orvis v. Higgins 180 F2d 537(1950) credibility of the witnesses is important, Mr. Ketabchi's only witness was Dr. Robert H. Berger which Dr Robert H. Berger listed in his resume(lower court record) claimed that he worked in Bellevue Hospital as head of the Psychiatric Department between years of 1996 to 2004. Bellevue Hospital said, Dr. Robert Berger with different license number as Dr. Robert H. Berger was working there. **Mr. Ketabchi's only witness Dr. Robert H. Berger is a Conman,** who uses other doctors experience in his Resume, because of the similarities of their name, yet Judge Berman recognized Dr. Robert H. Berger as a credible witness and based his judgment mainly on Dr. Berger's opinion and him saying that I am not credible, and my witnesses not credible. In this case, also judge Berman's credibility was in question since he discriminated against me. **The weight of my evidences submitted, Mr. Ketabchi's crimes and my witnesses were heavy and credible enough to have the judgment on my side, judge Berman used credibility reason to give the judgment to the rapist side. This only happens in Saudi, when women get raped, they are the one who are blamed and punished and the rapist walks free and proud.**

United States v. United states Gypsum Co., 333US 364. United States v. Yellow Cab Co., 332US 332. Zenith Radio Corp. v. Hazeltine Research, Inc. 395 US 100. Mr. Ketabchi and his current wife went to my doctors in 2003 and harassed to kill me and my family. Dr. Shayaste and Dr. Panah said Mr. Ketabchi is crazy and dangerous please, go to the Police, we are fearful for you and your families life. Dr. Shyaste and Dr. Panah

said, they were even worried for their own lives.

A few times Mr. Ketabchi sent cars and truck to run over me and my family then came over to my apartment and said "did you got your message" if you ever open your mouth, next time it will happen, that's why he shut me up for years.

Mr. Ketabchi cut right in front of my daughters boy friends, called their jobs, they told us about it and said that Mr. Ketabchi is very dangerous and crazy man who might harm us because of you guys, and you have to go to the Police(Kyle Nemet, Danie Ghabyzadeh, Dr. Amozagar, Dr. Babak Vakili, Salim Jadi(the son of Ambassador of Moraccor) ....) Not only Mr. Ketabchi stalking me but he stalked my family as well(doctors, boy friends, friends, Iranian Community, internet, jobs ...).

Mr. Ketabchi went to Michael Despirit, his partner and his advertising agent Mr. Schneider(my daughter Irman work for them, she is a fashion model) the way Mr. Ketabchi went to them and the way he acted, made them to be scared for us, they are willing to testify. Mr. Ketabchi followed me and my family in every step we took, as he admitted in the tape, he had people following me). I am afraid for our safety after the courts are over.

I already brought this fact to Judge Berman's attention in 2005, as well as Trial, I also said to Judge Berman, please send this man to Criminal Court, he is a very skillful criminal. Mr. Ketabchi's deceased wife Mrs. Mahvash Ketabchi had a multiple life insurances, properties, and a big bank account. She did not die of breast cancer in February 2003 Mr. Ketabchi told me that it was at night when he had an argument with his deceased wife, lost control, pushed her and she fall down the stairs, Mr. Ketabchi said it was an accident, and he did not do it purposely. He also said that, the same night of that incident, his deceased wife lost her ability of speech and walking. He purposely did not call the Ambulance and did not take her to the hospital. Mr. Ketabchi said that he said to his deceased wife's

doctor (Iranian primary doctor who cared for Mrs. Ketabchi) not to write about that incident in her file, because the insurance companies will give him hard time later on. Two months after that incident when Mrs. Ketabchi went in to the deep coma, Mr. Ketabchi called the Ambulance and took her to the hospital which she died a few days later. When she died, one of her sons and her only daughter were in Iran, getting married and her oldest son was living in Florida with his fiance.

Mr. Ketabchi said the only witness to his crime was Mrs. Farah Sherazi (the maid). Later on Mr. Ketabchi changed the name of Mrs. Fahrah Sherazi(maid) to Afsaneh Mahyari, which is the name of Mr. Ketabchi's second cousins wife who is an Iranian Canadian and lives in Vancouver with her husband, Mr. Mahyari. This way Mr. Ketabchi got rid of the only witness to his crime by changing names. Everyone will be mistaken (Mrs. Farah Sherazi named changed to Mrs. Afsaneh Mahyari) with Mrs. Afsaneh Mahyari who lives in Canada(I met the real Afsaneh Mahyari and her husband in their store which they purchased from Mr. Ketabchi for the short time in 55th street and 6th Ave in Oct 2003).

Mr. Ketabchi also, said that he will collect the money from life insurance companies way later, so no one will be suspicious. I also know Mrs. Farah Sherazi named changed to Mrs. Afsaneh Mahyari since her grandson Arman was my daughter primary school classmate. My concern is, do you still think such a criminal deserves any break.

CONCLUSION

Mr. Ketabchi skipped all of his crimes since he raped me in January 25 2005, attempt to rape my daughter Atosa, traveled with his brothers American passport and admitted at the Trial and tape, raped me right from the start and raped a little boy and admitted at the Trial.

But Mr. Ketabchi did fraud and forgery(Erroneous Error) his only phone statement submitted to the court and also did fraud and forged(Erroneous Error) my landline to cover up for the rape of January 25 2005. **Signed Affidavits from two**

Phone Experts expressing their opinion that Mr. Ketabchi fraud and forged both phone statements his and mine(Erroneous Error) and was posted in the last two pages of second booklet(proven fraud). Experts Opinion was never submitted to any court but US Supreme Court. By the law, when there is Erroneous Error and is proven by the Experts the judgment must be changed. Now, based on the case laws in "**THE REASONS FOR REHEARING**" I am appealing for the Judgment on my case to be changed, and should not be denied again, since there are Erroneous Error on my case by Mr. Ketabchi and proven by Experts.

Any ways, I have fought for myself, and I will not stop here, I will be the voice of all the women, men and children who were raped by preditors like Mr. Ketabchi. As for Mrs. Mahvash Ketabchi, I felt obligated to fight for her as well, that's why with a letter to Judge Richard M. Berman I explained every little detail to him. Also, every time I saw him I did mention about Mrs. Mahvash Ketabchi, I referred to that incident in my Trial as well. But I did not say anything about her case to Court of Appeal because I was too sick. Now, you know the whole truth, it is really worth to be considered by US Supreme Court. Mr. Ketabchi is a very dangerous man and I believe me and my family are always in danger.

I am appealing for the decision on my case to be changed based on the case laws, **Anderson v. Bassemer City, North Carolina470 US 564, Inwood Laboratories Inc v. Ives Laboratories Inc 456 US 844, United States v. Yellow Cab Co 338 US 338, King v. First American Investigations, Inc 287 F.3d 91.** Under these case laws, when there are proven Erroneous Errors in my case and there are Experts Opinion to support that, the Judgment on my case must be changed.

Thank you,

Irandokht Bahrami